Journal of the House

State of Indiana

112th General Assembly *First Regular Session*

Eighteenth Meeting Day **Monday Afternoon** **February 12, 2001**

The House convened at 1:00 p.m. with the Speaker in the Chair.

The invocation was offered by Pastor Bob Taylor, Colonial Hills Baptist Church, Indianapolis, the guest of Representative James D. Atterholt.

The Pledge of Allegiance to the Flag was led by Representative Dennis K. Kruse.

The Speaker ordered the roll of the House to be called:

T. Adams
Aguilera
Alderman
Atterholt
Avery
Ayres
Bardon
Bauer
Becker
Behning
Bischoff
Bodiker
Bosma
Bottorff
C. Brown
T. Brown
Buck
Budak
Buell
Burton
Cheney
Cherry
Cochran
Cook
Crawford
Crooks
Crosby
Day
Denbo
Dickinson
Dillon
Dobis
Dumezich
Duncan
Dvorak
Espich
Foley
Frenz
Friend
Frizzell
Fry
GiaQuinta
Goeglein
Goodin
Grubb
Harris
Hasler
Herndon
Herrell
Hinkle
Hoffman
Kersey
Klinker
Kromkowski
Kruse
Kruzan
Kuzman
Lawson
Leuck
Liggett
J. Lutz
Lytle
Mahern
Mangus
Mannweiler
McClain
Mellinger
Mock
Moses
Munson
Murphy
Oxley
Pelath
Pond
Porter
Richardson
Ripley
Robertson
Ruppel
Saunders
Scholer
M. Smith
V. Smith
Steele
Stevenson
Stilwell
Sturtz
Summers
Thompson
Tincher
Torr
Turner
Ulmer
Weinzapfel
Welch
Whetstone
Wolkins
D. Young
Yount
Mr. Speaker

Roll Call 47: 100 present. The Speaker announced a quorum in attendance. [*NOTE*: • *indicates those who were excused*.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Tuesday, February 13, 2001, at 1:00 p.m.

WEINZAPFEL

Motion prevailed.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Engrossed Senate Bills 260, 263, 308, 310, and 313 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 27 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 27

The Speaker handed down Senate Concurrent Resolution 27, sponsored by Representative Goodin:

A CONCURRENT RESOLUTION to honor and memorialize James W. Spurgeon, former State Senator from the State of Indiana.

Whereas, James W. (Jim) Spurgeon faithfully served the State of Indiana and Jackson County in the public arena for over 40 years;

Whereas, Jim Spurgeon was elected to the Indiana House of Representatives in 1947 and served four consecutive terms;

Whereas, Jim Spurgeon was elected to the Indiana Senate where he served from 1956 to 1968 and then again from 1978 to 1982;

Whereas, Prior to his service in the Indiana General Assembly, Senator Spurgeon worked as the chief licensing officer with the Indiana Department of Insurance, where he established the first state insurance exam;

Whereas, Senator Spurgeon also served as deputy county clerk in Jackson County and later in the state treasurer's office;

Whereas, Senator Spurgeon graduated in 1936 from Central Business College and purchased George Gunder Insurance Agency, now Jackson County Insurance agency;

Whereas, Senator Spurgeon enjoyed a wonderful marriage to his wife, Pauline Dawson Spurgeon, and strong family bonds with his two children, John William and Jaline, and his seven grandchildren;

Whereas, Senator Spurgeon honorably served his county in the Army during World War II;

Whereas, Senator Spurgeon was actively involved in his community as chairman of the building committee for the Brownstown swimming pool, 50-year member of the Knights of Pythias, the Scottish Rite and the Masonic Lodge, 50-year member of the Brownstown Lions Club, where he served as past Lions Club district governor, 50-year member of the Brownstown American

Legion, and a member of the Seymour Elks Club and Seymour and Hickory Hills golf clubs;

Whereas, Senator Spurgeon was awarded many distinguished honors, including the Brownstown Chamber of Commerce's Lifetime Achievement Award in 2000, was named the grand marshal of the Jackson County Watermelon Festival in 1999, and was named both a Sagamore of the Wabash and a Kentucky Colonel;

Whereas, during Senator Spurgeon's time in the General Assembly, he advocated for many issues affecting his district in Southern Indiana and the State of Indiana as a whole; and,

Whereas, Senator Spurgeon passed away on February 1, 2001, leaving behind a loving family, and many friends and admiring colleagues: Therefore,

Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly recognizes the service of Senator James W. Spurgeon to the State of Indiana.

SECTION 2. That the Secretary of the Senate is hereby directed to transmit copies of this Resolution to Pauline Dawson Spurgeon, and John William and Jaline Spurgeon.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 3:10 p.m. with the Speaker in the Chair.

HOUSE BILLS ON SECOND READING

The following bills were called down by their respective authors, were read a second time by title, and, there being no amendments, were ordered engrossed: House Bills 1096, 1097, 1155, 1190, 1235, 1267, 1361, 1389, 1396, 1398, 1468, 1475, 1502, 1526, 1542, 1560, 1585, 1591, 1644, 1661, 1674, 1705, 1710, 1728, 1739, 1742, 1752, 1789, 1808, 1824, 1855, 1924, 1935, 1937, 1948, 1971, 2041, and 2117.

House Bill 1120

Representative Becker called down House Bill 1120 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1120–1)

Mr. Speaker: I move that House Bill 1120 be amended to read as follows:

Page 3, line 2, strike "one" and insert "**two**".

Page 3, line 2, delete "**fifty**".

Page 3, line 3, delete "**$150,000**" and insert "**$200,000**".

(Reference is to HB 1120 as printed February 9, 2001.)

BECKER

Motion prevailed. The bill was ordered engrossed.

House Bill 1140

Representative Liggett called down House Bill 1140 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1140–1)

Mr. Speaker: I move that House Bill 1140 be amended to read as follows:

Page 2, line 30, delete "Southern" and insert "**Center**".

Page 2, line 31, delete "Southern" and insert "**Center**".

(Reference is to HB 1140 as printed February 9, 2001.)

FRIEND

Motion prevailed. The bill was ordered engrossed.

House Bill 1186

Representative Day called down House Bill 1186 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1186–1)

Mr. Speaker: I move that House Bill 1186 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health and to make an appropriation.

Page 1, delete lines 1 through 7.

Page 4, after line 17, begin a new paragraph and insert:

"SECTION 3. [EFFECTIVE JULY 1, 2001] **(a) There is appropriated each state fiscal year to the local health maintenance fund established by IC 16-46-10 one million five hundred thousand dollars ($1,500,000) from the Indiana tobacco master settlement agreement fund beginning July 1, 2001, and ending June 30, 2003, to provide funds for the annual distribution to local boards of health under IC 16-46-10-2. The appropriation under this SECTION is in addition to any other appropriation to the local health maintenance fund.**

(b) This SECTION expires July 1, 2003.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1186 as printed February 9, 2001.)

DAY

Motion prevailed. The bill was ordered engrossed.

House Bill 1395

Representative Atterholt called down House Bill 1395 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1395–1)

Mr. Speaker: I move that House Bill 1395 be amended to read as follows:

Page 1, after line 10, begin a new paragraph and insert:

"SECTION 2. IC 5-22-15-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 25. (a) As used in this section, "steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two (2) or more such operations, by the open hearth, basic oxygen, electric furnace, Bessemer, or other steel making process.**

(b) As used in this section, "United States" includes all territory, continental or insular, subject to the jurisdiction of the United States.

(c) Unless the head of the purchasing agency makes a written determination described in subsection (d), a solicitation must require that if any steel products are used in:

(1) the manufacture of the supplies required under the contract; or

(2) supplies used in the performance of the services under the contract by the contractor or a subcontractor of the contractor;

the steel products must be manufactured in the United States.

(d) Subsection (c) does not apply if the head of the purchasing agency determines in writing that both of the following apply:

(1) The cost of the contract with the requirements of subsection (c) would be greater than one hundred fifteen percent (115%) of the cost of the contract without the requirements of subsection (c).

(2) Failure to impose the requirements of subsection (c) would not in any way:

(A) harm the business of a facility that manufactures steel products in Indiana; or

(B) result in the reduction of employment or wages and benefits of employees of a facility described in clause (A).

(e) A purchasing agency shall inform offerors in the solicitation of the provisions of this section.

SECTION 3. IC 5-22-17-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2001]: **Sec. 14. A contract awarded under this article must include the requirements of IC 5-22-15-25(c) unless the head of the purchasing agency makes a determination under IC 5-22-15-25(d).**

SECTION 4. IC 5-22-19-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5. An Indiana taxpayer has standing to do either of the following:**

(1) Challenge a determination made under IC 5-22-15-25(d).

(2) Enforce a contract provision required by IC 5-22-17-14.".

(Reference is to HB 1395 as printed February 6, 2001.)

KUZMAN

Motion prevailed. The bill was ordered engrossed.

The Speaker announced that Lois Cook, the mother of Representative Gary Cook and wife of former Representative Ed Cook, had died this afternoon. The House stood for a moment of silence in her memory.

Representative Cook was excused for the rest of the day.

House Bill 1540

Representative FRY called down House Bill 1540 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1540–1)

Mr. Speaker: I move that House Bill 1540 be amended to read as follows:

Page 13, line 10, delete "sections" and insert "**section**".

Page 32, line 22, delete " IC 5-22" and insert "**IC 5-27**".

Page 32, line 30, delete "IC 5-27-1" and insert "**IC 5-27-1-7, as added by this act**".

Page 32, line 32, after "5-27-4-2" insert "**, as added by this act**".

(Reference is to HB 1540 as printed January 25, 2001.)

FRY

Motion prevailed.

HOUSE MOTION
(Amendment 1540–2)

Mr. Speaker: I move that House Bill 1540 be amended to read as follows:

Page 31, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 4. IC 4-15-10-4 IS AMENDED TO READ AS FOLLOWS: Sec. 4. (a) Any employee may report in writing the existence of:

(1) a violation of a federal law or regulation;

(2) a violation of a state law or rule;

(3) a violation of an ordinance of a political subdivision (as defined in IC 36-1-2-13); or

(4) the misuse of public resources;

first to a supervisor or appointing authority, unless the supervisor or appointing authority is the person whom the employee believes is committing the violation or misuse of public resources. In that case, the employee may report the violation or misuse of public resources in writing to either the supervisor or appointing authority or to the state ethics commission and any official or agency entitled to receive a report from the state ethics commission under IC 4-2-6-4(b)(2)(G) or IC 4-2-6-4(b)(2)(H). If a good faith effort is not made to correct the problem within a reasonable time, the employee may submit a written report of the incident to any person, agency, or organization.

(b) For having made a report under subsection (a) **or for contacting a state elected or appointed official under subsection (d)**, the employee making the report **or contacting the state elected or appointed official** may not:

(1) be dismissed from employment;

(2) have salary increases or employment related benefits withheld;

(3) be transferred or reassigned;

(4) be denied a promotion the employee otherwise would have received; or

(5) be demoted.

(c) Notwithstanding subsections (a) and (b), an employee must make a reasonable attempt to ascertain the correctness of any information to be furnished and may be subject to disciplinary actions for knowingly furnishing false information, including suspension or dismissal, as determined by the employee's appointing authority or the appointing authority's designee. However, any state employee disciplined under this subsection is entitled to process an appeal of the disciplinary action under the procedure as set forth in IC 4-15-2-34 and IC 4-15-2-35.

(d) Any employee may contact any state elected or appointed official for any reason. In addition to the protections offered by subsection (b), an employee contacting a state elected or appointed official may not be:

(1) reprimanded;

(2) investigated;

(3) consulted;

(4) disciplined;

(5) interrogated;

(6) accused of violating the chain of command; or

(7) discouraged from contacting the state elected or appointed official.

No report, finding of fact, or other written document may be placed in the employee's personnel or employment file as a result of, or pertaining to, the employee's contacting a state elected or appointed official.

~~(d)~~ **(e)** An employer who violates this section commits a Class A infraction."

Renumber all SECTIONS consecutively.

(Reference is to HB 1540 as printed February 9, 2001.)

BUCK

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was not well taken.

The question then was on the motion of Representative Buck. The Speaker ordered a division of the House and appointed Representatives Kruzan and Bosma to count the yeas and nays. Yeas 45, nays 48. Motion failed. The bill was ordered engrossed.

House Bill 1590

Representative Mellinger called down House Bill 1590 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1590–1)

Mr. Speaker: I move that House Bill 1590 be amended to read as follows:

Page 2, line 31, delete ".".

Page 2, line 32, after "than" insert "**proposed by a political subdivision with jurisdiction in whole or in part outside**".

Page 2, line 32, reset in roman "a city described in subsection (b)(1).".

Page 3, line 2, delete ".".

Page 3, line 2, after "than" insert "**proposed by a political subdivision with jurisdiction in whole or in part outside**".

Page 3, line 2, reset in roman "a city".

Page 3, reset in roman line 3.

(Reference is to HB 1590 as printed February 1, 2001.)

MELLINGER

Motion prevailed. The bill was ordered engrossed.

House Bill 1815

Representative Tincher called down House Bill 1815 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1815–1)

Mr. Speaker: I move that House Bill 1815 be amended to read as follows:

Page 11, after line 30, begin a new paragraph and insert:

"SECTION 12. [EFFECTIVE JULY 1, 2001] **(a) There is appropriated to the Indiana state teachers' retirement fund one hundred seventy-six million dollars ($176,000,000) from the state general fund beginning July 1, 2001, and ending June 30, 2003, for postretirement pension increases.**

(b) This SECTION expires July 1, 2003.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1815 as printed February 9, 2001.)

ESPICH

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Espich's amendment (1815–1) is not germane to House Bill 1815. Representative Espich's amendment is germane, as required by Rule 80. The amendment provides a method for funding the pension COLAs authorized by the bill. The constitutional test for germaneness does not include an arbitrary provision that an appropriation amendment cannot be amended into a non-appropriations bill, as ruled by the Chair.

ESPICH
MUNSON

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

The question was, Shall the ruling of the Chair be sustained? Roll Call 48: yeas 48, nays 45. The ruling of the Chair was sustained.

The Speaker Pro Tempore yielded the gavel to the Speaker.

There being no further amendment, the bill was ordered engrossed.

House Bill 1916

Representative Frenz called down House Bill 1916 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 1916–1)

Mr. Speaker: I move that House Bill 1916 be amended to read as follows:

Page 1, line 14, after "**made**" insert "**equally**".

Page 2, line 9, after "offered" insert "**equally**".

Page 2, line 11, after "notify" insert "**simultaneously**".

Page 2, line 14, after "be" insert "**simultaneously**".

Page 2, line 30, after "**made**" insert "**equally**".

(Reference is to HB 1916 as printed February 9, 2001.)

KRUSE

Motion prevailed. The bill was ordered engrossed.

House Bill 2025

Representative Kromkowski called down House Bill 2025 for second reading. The bill was read a second time by title.

HOUSE MOTION
(Amendment 2025–1)

Mr. Speaker: I move that House Bill 2025 be amended to read as follows:

Page 7, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 6. [EFFECTIVE JULY 1, 2001] **(a) There is appropriated to the pension relief fund established by IC 5-10.3-11 one hundred eight million dollars ($108,000,000) from the state general fund beginning July 1, 2001, and ending June 30, 2003.**

(b) This SECTION expires July 1, 2003.".

Renumber all SECTIONS consecutively.

(Reference is to HB 2025 as printed February 9, 2001.)

ESPICH

Representative Moses rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill. The Speaker ruled the point was well taken and the motion was out of order.

APPEAL OF THE RULING OF THE CHAIR

Mr. Speaker: We hereby appeal the ruling of the Chair that Representative Espich's amendment (2025–1) is not germane to House Bill 2025. Representative Espich's amendment is germane, as required by Rule 80. The amendment provides a method for funding the pension relief authorized by the bill. The constitutional test for germaneness does not include an arbitrary provision that an appropriation amendment cannot be amended into a non-appropriations bill, as ruled by the Chair.

ESPICH
MUNSON

The Speaker yielded the gavel to the Speaker Pro Tempore, Representative Dobis.

The question was, Shall the ruling of the Chair be sustained? Roll Call 49: yeas 50, nays 46. The ruling of the Chair was sustained.

There being no further amendments, the bill was ordered engrossed.

The Speaker Pro Tempore yielded the gavel to the Speaker.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1075

Representative Lytle called down Engrossed House Bill 1075 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 50: yeas 95, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Ford and R. Young.

Engrossed House Bill 1212

Representative Bischoff called down Engrossed House Bill 1212 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 51: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Weatherwax, and Lewis.

Engrossed House Bill 1222

Representative Sturtz called down Engrossed House Bill 1222 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning consumer sales and credit.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 52: yeas 99, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Long and Lanane.

Engrossed House Bill 1247

Representative Avery called down Engrossed House Bill 1247 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 53: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Server and Bowser.

Engrossed House Bill 1302

Representative Grubb called down Engrossed House Bill 1302 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 54: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Weatherwax, Lewis, and R. Young.

Engrossed House Bill 1430

Representative D. Young called down Engrossed House Bill 1430 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 55: yeas 96, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Meeks and Ford.

Engrossed House Bill 1541

Representative Dillon called down Engrossed House Bill 1541 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 56: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Alting and Simpson.

Engrossed House Bill 1605

Representative Kersey called down Engrossed House Bill 1605 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 57: yeas 60, nays 38. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators Server and Blade.

Engrossed House Bill 1636

Representative Goodin called down Engrossed House Bill 1636 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning consumer credit.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 58: yeas 99, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators .

Engrossed House Bill 1810

Representative Crosby called down Engrossed House Bill 1810 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 59: yeas 98, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Lawson, Simpson, Gard, and Breaux.

Engrossed House Bill 1851

Representative C. Brown called down Engrossed House Bill 1851 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Representatives Bosma, Foley, Gregg, Kuzman, Ulmer, and Weinzapfel were excused from voting. Roll Call 60: yeas 80, nays 13. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators R. Meeks, Rogers, and S. Smith.

Representative Mannweiler was excused for the rest of the day.

Engrossed House Bill 1864

Representative Crawford called down Engrossed House Bill 1864 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 61: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators .

Engrossed House Bill 2099

Representative Budak called down Engrossed House Bill 2099 for third reading:

A BILL FOR AN ACT concerning welfare.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 62: yeas 96, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Clerk was directed to inform the Senate of the passage of the bill. Senate sponsors: Senators C. Lawson and Antich.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1091, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 6, after "1." insert "**(a)**".

Page 1, between lines 10 and 11, begin a new paragraph and insert: "**(b) The term does not include the following:**

(1) Accident-only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy issued as an individual policy.

(6) A limited benefit health insurance policy issued as an individual policy.

(7) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(8) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.".

(Reference is to HB 1091 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 13, nays 0.

SUMMERS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1116, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1117, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 2.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1122, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 19, after "1." insert "**(a)**".

Page 2, between lines 23 and 24, begin a new paragraph and insert: "**(b) The term does not include the following:**

(1) Accident-only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

(5) A specified disease policy issued as an individual policy.

(6) A limited benefit health insurance policy issued as an individual policy.

(7) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(8) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.".

(Reference is to HB 1122 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 1.

SUMMERS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1136, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 13, nays 0.

SUMMERS, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1365, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 1.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1499, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) Except as provided in subsections (b) and (d), a taxpayer shall, on or before the filing date of each year, file a personal property return with the assessor of each township in which the taxpayer's personal property is subject to assessment.

(b) The ~~township assessor may grant a taxpayer a~~ **filing date for filing the taxpayer's return is extended by** thirty (30) ~~day extension to file the taxpayer's return~~ **days** if ~~(1)~~ the taxpayer submits **to the township assessor** a written ~~application for an~~ **notice of** extension ~~prior to~~ **before** the filing date. ~~and (2) the taxpayer is prevented from filing a timely return because of sickness, absence from the county, or any other good and sufficient reason.~~

(c) If the sum of the assessed values reported by a taxpayer on the business personal property returns which the taxpayer files with the township assessor for a year exceeds one hundred fifty thousand dollars ($150,000), the taxpayer shall file each of the returns in duplicate.

(d) A taxpayer may file a consolidated return with the county assessor if the taxpayer has personal property subject to assessment in more than one (1) township in a county and the total assessed value of the personal property in the county is less than one million five hundred thousand dollars ($1,500,000). A taxpayer filing a consolidated return shall attach a schedule listing, by township, all the taxpayer's personal property and the property's assessed value. A taxpayer filing a consolidated return is not required to file a personal property return with the assessor of each township. A taxpayer filing a consolidated return shall provide the following:

(1) The county assessor with the information necessary for the county assessor to allocate the assessed value of the taxpayer's personal property among the townships listed on the return, including the street address, the township, and the location of the property.

(2) A copy of the consolidated return, with attachments, for each township listed on the return.

(e) The county assessor shall provide to each affected township

assessor in the county all information filed by a taxpayer under subsection (d) that affects the township. The county assessor shall provide the information before:

(1) May 25 of each year, for a return filed on or before the filing date for the return; or

(2) June 30 of each year, for a return filed after the filing date for the return.

(f) The township assessor shall send all required notifications to the taxpayer.

(g) The county assessor may refuse to accept a consolidated personal property tax return that does not have attached to it a schedule listing, by township, all the personal property of the taxpayer and the assessed value of the property as required under subsection (d). For purposes of IC 6-1.1-37-7, a consolidated return is filed on the date it is filed with the county assessor with the schedule of personal property and assessed value attached.

SECTION 2. IC 6-1.1-3-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7.5. (a) A taxpayer may file an amended personal property tax return, in conformity with the rules adopted by the state board of tax commissioners, not more than six (6) months after the later of the following:

(1) The filing date for the original personal property tax return, if the taxpayer ~~is~~ **does** not ~~granted~~ **take** an extension in which to file under section 7 of this chapter.

(2) The extension date for the original personal property tax return, if the taxpayer ~~is granted~~ **takes** an extension under section 7 of this chapter.

(b) A tax adjustment related to an amended personal property tax return shall be made in conformity with rules adopted under IC 4-22-2 by the state board of tax commissioners.".

Page 1, line 9, delete "2004" and insert "**2006**".

Page 2, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 4. IC 6-1.1-4-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2001 (RETROACTIVE)]: Sec. 12.5. (a) For purposes of this section, the term "secondary recovery method" includes but is not limited to the stimulation of oil production by means of the injection of water, steam, hydrocarbons, or chemicals, or by means **of** in situ combustion.

(b) The total assessed value of all interests in the oil located on or beneath the surface of a particular tract of land equals the product of (1) the average daily production of the oil, multiplied by (2) three hundred sixty-five (365), and further multiplied by (3) ~~one-third (1/3) of~~ the posted price of oil on the assessment date. However, if the oil is being extracted by use of a secondary recovery method, the total assessed value of all interests in the oil equals one-half (1/2) the assessed value computed under the formula prescribed in this subsection. The appropriate township assessor shall, in the manner prescribed by the state board of tax commissioners, apportion the total assessed value of all interests in the oil among the owners of those interests.

(c) The appropriate township assessor shall, in the manner prescribed by the state board of tax commissioners, determine and apportion the total assessed value of all interests in the gas located beneath the surface of a particular tract of land.

(d) The state board of tax commissioners shall prescribe a schedule for township assessors to use in assessing the appurtenances described in section 12.4 (c) of this chapter.".

Page 6, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 8. IC 6-1.1-4-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) The auditor of each county shall establish a property reassessment fund. The county treasurer shall deposit all collections resulting from the property taxes that the county is required to levy under this section in the county's property reassessment fund.

(b) With respect to the general reassessment of real property which is to commence on July 1, 1999, the county council of each county shall, for property taxes due in the year in which the general reassessment is to commence and the three (3) years immediately preceding that year, levy against all the taxable property of the county an amount equal to three-fourteenths (3/14) of the estimated cost of the general reassessment.

(c) With respect to a general reassessment of real property that is to commence on July 1, 2003, and each fourth year thereafter, the county council of each county shall, for property taxes due in the year that the general reassessment is to commence and the three (3) years preceding that year, levy against all the taxable property in the county an amount equal to one-fourth (1/4) of the estimated cost of the general reassessment.

(d) The state board of tax commissioners shall give to each county council notice, before January 1, of the tax levies required by this section.

(e) The state board of tax commissioners may raise or lower the property taxes levied under this section for a year if they determine it is appropriate because the estimated cost of the general reassessment has changed.

(f) If the county council determines that there is insufficient money in the county's reassessment fund to pay all expenses (as permitted under section 28 of this chapter) relating to the general reassessment of real property referred to in subsection (b), the county may, for the purpose of paying expenses (as permitted under section 28 of this chapter) relating to the general reassessment referred to in subsection (b), use money deposited in the fund from taxes levied under subsection (c).

SECTION 9. IC 6-1.1-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 4.5. Determination of Financial Impact of Government Owned Real Property in a Qualified Township

Sec. 1. As used in this chapter, "qualified assessed value" means the value, as determined by the state board of tax commissioners under rules adopted by the state board of tax commissioners, of real property that is owned and occupied by the government of the United States, an agency or instrumentality of the United States, the state, an agency or instrumentality of the state, or a political subdivision of the state. As used in this chapter, the term does not mean fair market value or true tax value.

Sec. 2. As used in this chapter, "qualified township" means a township that:

(1) has a population of more than one hundred eighty thousand (180,000); and

(2) is located in a county having a consolidated city.

Sec. 3. Notwithstanding IC 6-1.1-11-9(b), the qualified assessed value of real property in a qualified township that is owned and occupied by the government of the United States, an agency or instrumentality of the United States, the state, an agency or instrumentality of the state, or a political subdivision of the state shall be determined by the state board of tax commissioners in the manner prescribed in this chapter.

Sec. 4. Before January 1, 2002, and before January 1 each year that a general reassessment begins under IC 6-1.1-4-4, the county assessor of a county having a qualified township shall provide the state board of tax commissioners with a list of each parcel of real property subject to assessment under section 3 of this chapter.

Sec. 5. The county assessor of a county having a qualified township shall provide support to the state board of tax commissioners' assessor during an assessment under section 3 of this chapter.

Sec. 6. (a) When the state board of tax commissioners determines its final assessments of parcels subject to assessment under section 3 of this chapter, the state board shall certify the qualified assessed values to the county assessor and the county auditor of the county in which the parcels are located.

(b) The county assessor shall review the certification of the state board of tax commissioners to determine if any parcels subject to assessment under section 3 of this chapter have been omitted and shall notify the state board of additions that the county assessor finds are necessary. The state board shall consider the county assessor's findings and make any additions to the certification that the state board finds are necessary.

(c) A determination of qualified assessed value by the state board of tax commissioners under this chapter may not be the subject of an appeal by any entity or taxpayer.

Sec. 7. (a) The state board of tax commissioners shall publish a report containing the following information before December 31, 2004:

(1) The qualified assessed value of the following property in each taxing district in a qualified township as of March 1, 2004:

(A) Real property owned by the United States and its agencies and instrumentalities that is exempt from property taxation.

(B) Real property owned by the state and its agencies and instrumentalities that is exempt from property taxation.

(C) Real property owned by a political subdivision of the state that is exempt from property taxation.

(2) For taxes payable in the year for which the assessment is made, the tax rate (net of the property tax replacement credit) that would have applied for:

(A) the qualified township; and

(B) each taxing unit located in the qualified township;

if the qualified assessed value in the qualified township had been taxable assessed value.

(b) For purposes of this section, a taxing district in a qualified township includes a taxing district located wholly or partially in the township.

Sec. 8. This chapter is intended to provide special rules for the qualified assessment of real property that is owned and occupied by the government of the United States, an agency or instrumentality of the United States, the state, an agency or instrumentality of the state, or a political subdivision of the state. If a provision in this chapter conflicts with any other provision in this article, the provision in this chapter controls with respect to the assessment of such property.

Sec. 9. The state board of tax commissioners shall adopt rules under IC 4-22-2 to carry out this chapter.".

Page 6, line 35, delete "treasurer" and insert "**auditor**".

Page 6, line 36, delete "treasurer" and insert "**auditor**".

Page 7, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 13. IC 6-1.1-10-16, AS AMENDED BY P.L.126-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) All or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes.

(b) A building is exempt from property taxation if it is owned, occupied, and used by a town, city, township, or county for educational, literary, scientific, fraternal, or charitable purposes.

(c) A tract of land, including the campus and athletic grounds of an educational institution, is exempt from property taxation if:

(1) a building which is exempt under subsection (a) or (b) is situated on it; and

(2) the tract does not exceed:

(A) fifty (50) acres in the case of:

(i) an educational institution; or

(ii) a tract that was exempt under this subsection on March 1, 1987; or

(B) two hundred (200) acres in the case of a local association formed for the purpose of promoting 4-H programs; or

(C) fifteen (15) acres in all other cases.

(d) A tract of land is exempt from property taxation if:

(1) it is purchased for the purpose of erecting a building which is to be owned, occupied, and used in such a manner that the building will be exempt under subsection (a) or (b);

(2) the tract does not exceed:

(A) fifty (50) acres in the case of:

(i) an educational institution; or

(ii) a tract that was exempt under this subsection on March 1, 1987;

(B) two hundred (200) acres in the case of a local association formed for the purpose of promoting 4-H programs; or

(C) fifteen (15) acres in all other cases; and

(3) not more than three (3) years after the property is purchased, and for each year after the three (3) year period, the owner demonstrates substantial progress towards the erection of the intended building and use of the tract for the exempt purpose. To establish that substantial progress is being made, the owner must prove the existence of factors such as the following:

(A) Organization of and activity by a building committee or other oversight group.

(B) Completion and filing of building plans with the appropriate local government authority.

(C) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe the actual construction can and will begin within three (3) years.

(D) The breaking of ground and the beginning of actual construction.

(E) Any other factor that would lead a reasonable individual to believe that construction of the building is an active plan and that the building is capable of being completed within six (6) years considering the circumstances of the owner.

(e) Personal property is exempt from property taxation if it is owned and used in such a manner that it would be exempt under subsection (a) or (b) if it were a building.

(f) A hospital's property which is exempt from property taxation under subsection (a), (b), or (e) shall remain exempt from property taxation even if the property is used in part to furnish goods or services to another hospital whose property qualifies for exemption under this section.

(g) Property owned by a shared hospital services organization which is exempt from federal income taxation under Section 501(c)(3) or 501(e) of the Internal Revenue Code is exempt from property taxation if it is owned, occupied, and used exclusively to furnish goods or services to a hospital whose property is exempt from property taxation under subsection (a), (b), or (e).

(h) This section does not exempt from property tax an office or a practice of a physician or group of physicians that is owned by a hospital licensed under IC 16-21-1 or other property that is not substantially related to or supportive of the inpatient facility of the hospital unless the office, practice, or other property:

(1) provides or supports the provision of charity care (as defined in IC 16-18-2-52.5), including providing funds or other financial support for health care services for individuals who are indigent (as defined in IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c)); or

(2) provides or supports the provision of community benefits (as defined in IC 16-21-9-1), including research, education, or government sponsored indigent health care (as defined in IC 16-21-9-2).

However, participation in the Medicaid or Medicare program alone does not entitle an office, practice, or other property described in this subsection to an exemption under this section.

(i) A tract of land or a tract of land plus all or part of a structure on the land is exempt from property taxation if:

(1) the tract is acquired for the purpose of erecting, renovating, or improving a single family residential structure that is to be given away or sold:

(A) in a charitable manner;

(B) by a nonprofit organization; and

(C) to low income individuals who will:

(i) use the land as a family residence; and

(ii) not have an exemption for the land under this section;

(2) the tract does not exceed three (3) acres;

(3) the tract of land or the tract of land plus all or part of a structure on the land is not used for profit while exempt under this section; and

(4) not more than three (3) years after the property is acquired for the purpose described in subdivision (1), and for each year after the three (3) year period, the owner demonstrates substantial progress towards the erection, renovation, or improvement of the intended structure. To establish that substantial progress is being made, the owner must prove the existence of factors such as the following:

(A) Organization of and activity by a building committee or other oversight group.

(B) Completion and filing of building plans with the appropriate local government authority.

(C) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe the actual construction can and will begin within six (6) years of the initial exemption received under this subsection.

(D) The breaking of ground and the beginning of actual construction.

(E) Any other factor that would lead a reasonable individual to believe that construction of the structure is an active plan and that the structure is capable of being:

(i) completed; and

(ii) transferred to a low income individual who does not receive an exemption under this section;

within six (6) years considering the circumstances of the owner.

(j) An exemption under subsection (i) terminates when the property is conveyed by the nonprofit organization to another owner. When the property is conveyed to another owner, the nonprofit organization receiving the exemption must file a certified statement with the ~~auditor~~ **assessor** of the county, notifying the ~~auditor~~ **assessor** of the change not later than sixty (60) days after the date of the conveyance. **The county assessor shall forward a copy of the certified statement to the county auditor.** A nonprofit organization that fails to file the statement required by this subsection is liable for the amount of property taxes due on the property conveyed if it were not for the exemption allowed under this chapter.

(k) If property is granted an exemption in any year under subsection (i) and the owner:

(1) ceases to be eligible for the exemption under subsection (i)(4);

(2) fails to transfer the tangible property within six (6) years after the assessment date for which the exemption is initially granted; or

(3) transfers the tangible property to a person who:

(A) is not a low income individual; or

(B) does not use the transferred property as a residence for at least one (1) year after the property is transferred;

the person receiving the exemption shall notify the county recorder and the county ~~auditor~~ **assessor** of the county in which the property is located not later than sixty (60) days after the event described in subdivision (1), (2), or (3) occurs. **The county assessor shall inform the county auditor of a notification received under this subsection.**

(l) If subsection (k)(1), (k)(2), or (k)(3) applies, the owner shall pay, not later than the date that the next installment of property taxes is due, an amount equal to the sum of the following:

(1) The total property taxes that, if it were not for the exemption under subsection (i), would have been levied on the property in each year in which an exemption was allowed.

(2) Interest on the property taxes at the rate of ten percent (10%) per year.

(m) The liability imposed by subsection (l) is a lien upon the property receiving the exemption under subsection (i). An amount collected under subsection (l) shall be collected as an excess levy. If the amount is not paid, it shall be collected in the same manner that delinquent taxes on real property are collected.

SECTION 14. IC 6-1.1-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 21. (a) The following tangible property is exempt from property taxation if it is owned by, or held in trust for the use of, a church or religious society:

(1) A building which is used for religious worship.

(2) Buildings that are used as parsonages.

(3) The pews and furniture contained within a building which is used for religious worship.

(4) The tract of land, not exceeding fifteen (15) acres, upon which a building described in this section is situated.

(b) To obtain an exemption for parsonages, a church or religious society must provide the county ~~auditor~~ **assessor** with an affidavit at the time the church or religious society applies for the exemptions. The affidavit must state that:

(1) all parsonages are being used to house one (1) of the church's or religious society's rabbis, priests, preachers, ministers, or pastors; and

(2) none of the parsonages are being used to make a profit.

The affidavit shall be signed under oath by the church's or religious society's head rabbi, priest, preacher, minister, or pastor. **The county assessor shall forward a copy of the affidavit to the county auditor.**

SECTION 15. IC 6-1.1-10-36.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 36.5. **(a)** Tangible property is not exempt from property taxation under sections 16 through 28 of this chapter or under section 33 of this chapter if it is used by the exempt organization in a trade or business, not substantially related to the exercise or performance of the organization's exempt purpose.

(b) The state board of tax commissioners shall adopt rules under IC 4-22-2 to carry out this section.

SECTION 16. IC 6-1.1-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) ~~The~~ **An** owner of tangible property who wishes to obtain an exemption from property taxation shall file a certified application in duplicate with the ~~auditor~~ **assessor** of the county in which the property **that is the subject of the exemption** is located. The application must be filed annually on or before May 15 on forms prescribed by the state board of tax commissioners. **The county assessor shall forward a copy of the certified application to the county auditor.** Except as provided in sections 1, 3.5, and 4 of this chapter, the application applies only for the taxes imposed for the year for which the application is filed.

(b) The authority for signing an exemption application may not be delegated by the owner of the property to any other person except by an executed power of attorney.

(c) An exemption application which is required under this chapter shall contain the following information:

(1) A description of the property claimed to be exempt in sufficient detail to afford identification.

(2) A statement showing the ownership, possession, and use of the property.

(3) The grounds for claiming the exemption.

(4) The full name and address of the applicant.

(5) Any additional information which the state board of tax commissioners may require.

(d) A person who signs an exemption application shall attest in writing and under penalties of perjury that, to the best of the person's knowledge and belief, a predominant part of the property claimed to be exempt is not being used or occupied in connection with a trade or business that is not substantially related to the exercise or performance of the organization's exempt purpose.

SECTION 17. IC 6-1.1-11-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3.5. (a) A not-for-profit corporation that seeks an exemption provided by IC 6-1.1-10 for 1988 or for a year that follows 1988 by a multiple of four (4) years must file an application for the exemption in that year. However, if a not-for-profit corporation seeks an exemption provided by IC 6-1.1-10 for a year not specified in this subsection and the corporation did not receive the exemption for the preceding year, the corporation must file an application for the exemption in the year for which the exemption is sought. The not-for-profit corporation must file each exemption application in the manner (other than the requirement for filing annually) prescribed in section 3 of this chapter.

(b) A not-for-profit corporation that receives an exemption provided under IC 6-1.1-10 for a particular year that remains eligible for the exemption for the following year is only required to file a statement to apply for the exemption in the years specified in subsection (a), if the use of the not-for-profit corporation's property remains unchanged.

(c) A not-for-profit corporation that receives an exemption provided under IC 6-1.1-10 for a particular year which becomes ineligible for the exemption for the following year shall notify the ~~auditor~~ **assessor** of the county in which the tangible property for which it claims the exemption is located of its ineligibility on or before May 15 of the year for which it becomes ineligible. **If a not-for-profit corporation that is receiving an exemption provided under IC 6-1.1-10 changes the use of its tangible property so that part or all of that property no longer qualifies for the exemption, the not-for-profit corporation shall notify the assessor of the county in**

which the tangible property for which it claims the exemption is located of its ineligibility on or before May 15 of the year for which it first becomes ineligible. The county assessor shall notify the county auditor of the not-for-profit corporation's ineligibility or disqualification for the exemption. A not-for-profit corporation that fails to provide the notification required by this subsection is subject to the penalties set forth in IC 6-1.1-37-9.

(d) For each year that is not a year specified in subsection (a), the auditor of each county shall apply an exemption provided under IC 6-1.1-10 to the tangible property owned by a not-for-profit corporation that received the exemption in the preceding year unless the ~~auditor~~ **county property tax assessment board of appeals** determines that the not-for-profit corporation is no longer eligible for the exemption.

(e) The state board of tax commissioners may at any time review an exemption provided under this section and determine whether or not the not-for-profit corporation is eligible for the exemption.

SECTION 18. IC 6-1.1-11-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 8.5. (a) Before November 1 of each year that is not a general reassessment year, the county property tax assessment board of appeals shall review each exemption that was granted during the calendar year that is two (2) years before the current calendar year.**

(b) The county property tax assessment board of appeals shall determine if the property granted the exemption still meets the criteria for an exemption.

(c) If the county property tax assessment board of appeals determines that property granted an exemption no longer meets the criteria for the exemption, the board of appeals shall:

(1) revoke the exemption; and

(2) inform the county auditor.

Upon receiving a notice from the county property tax assessment board of appeals under this subsection, the county auditor shall notify the owner of the property by mail. Not more than thirty (30) days after the notice is mailed, the owner may, in the manner prescribed by IC 6-1.1-15-3, petition the state board of tax commissioners to review the revocation decision of the county property tax assessment board of appeals.

SECTION 19. IC 6-1.1-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. Each county ~~auditor~~ **assessor** shall, on behalf of the county, collect a fee of two dollars ($2) for each exemption application filed with him under this chapter. Each fee shall be accounted for and paid into the county general fund at the close of each month in the same manner as are other fees due the county. No other fee may be charged by a county ~~auditor,~~ **assessor,** or ~~his~~ **the assessor's** employees, for filing or preparing an exemption application.

SECTION 20. IC 6-1.1-12-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 28.5. (a) For purposes of this section:

"Hazardous waste" has the meaning set forth in IC 13-11-2-99(a) and includes a waste determined to be a hazardous waste under IC 13-22-2-3(b).

"Resource recovery system" means tangible property directly used to dispose of solid waste or hazardous waste by converting it into energy or other useful products.

"Solid waste" has the meaning set forth in IC 13-11-2-205(a) but does not include dead animals or any animal solid or semisolid wastes.

(b) Except as provided in this section, the owner of a resource recovery system is entitled to an annual deduction in an amount equal to ninety-five percent (95%) of the assessed value of the system if:

(1) the system was certified by the department of environmental management for the 1993 assessment year or a prior assessment year; and

(2) the owner filed a timely application for the deduction for the 1993 assessment year.

For purposes of this section, a system includes tangible property that replaced tangible property in the system after the certification by the department of environmental management.

(c) The owner of a resource recovery system that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

(1) is convicted of any violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or

(2) is subject to an order or a consent decree with respect to property located in Indiana based upon a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

(d) The certification of a resource recovery system by the department of environmental management for the 1993 assessment year or a prior assessment year is valid through the 1997 assessment year so long as the property is used as a resource recovery system. If the property is no longer used for the purpose for which the property was used when the property was certified, the owner of the property shall notify the county auditor. However, the deduction from the assessed value of the system is:

(1) ninety-five percent (95%) for the 1994 assessment year;

(2) ninety percent (90%) for the 1995 assessment year;

(3) seventy-five percent (75%) for the 1996 assessment year; and

(4) sixty percent (60%) for the 1997 assessment year.

Notwithstanding this section as it existed before 1995, for the 1994 assessment year, the portion of any tangible property comprising a resource recovery system that was assessed and first deducted for the 1994 assessment year may not be deducted for property taxes first due and payable in 1995 or later.

(e) In order to qualify for a deduction under this section, the person who desires to claim the deduction must file an application with the county auditor after February 28 and before May 16 of the current assessment year unless the person has ~~been granted~~ **taken** an extension under IC 6-1.1-3-7. If the person has ~~been granted~~ **taken** an extension, the person must file the application after February 28 and before June 15 of the current assessment year. An application must be filed in each year for which the person desires to obtain the deduction. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. If the application is not filed before the applicable deadline under this subsection, the deduction is waived. The application must be filed on a form prescribed by the state board of tax commissioners. The application for a resource recovery system deduction must include:

(1) a certification by the department of environmental management for the 1993 assessment year or a prior assessment year as described in subsection (d); or

(2) the certification by the department of environmental management for the 1993 assessment year as described in subsection (g).

Beginning with the 1995 assessment year a person must also file an itemized list of all property on which a deduction is claimed. The list must include the date of purchase of the property and the cost to acquire the property.

(f) Before July 1, 1995, the department of environmental management shall transfer all the applications, records, or other material the department has with respect to resource recovery system deductions under this section for the 1993 and 1994 assessment years. The township assessor shall verify each deduction application filed under this section and the county auditor shall determine the deduction. The county auditor shall send to the state board of tax commissioners a copy of each deduction application. The county auditor shall notify the county property tax assessment board of appeals of all deductions allowed under this section. A denial of a deduction claimed under this subsection may be appealed as provided in IC 6-1.1-15. The appeal is limited to a review of a determination made by the township assessor or the county auditor.

(g) Notwithstanding subsection (d), the certification for the 1993 assessment year of a resource recovery system in regard to which a political subdivision is liable for the payment of the property taxes remains valid at the ninety-five percent (95%) deduction level allowed

before 1994 as long as the political subdivision remains liable for the payment of the property taxes on the system.

SECTION 21. IC 6-1.1-12-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 35. (a) Except as provided in section 36 of this chapter, a person who desires to claim the deduction provided by section 31, 33, or 34 of this chapter must file a certified statement in duplicate, on forms prescribed by the state board of tax commissioners, and proof of certification under subsection (b) with the auditor of the county in which the property for which the deduction is claimed is subject to assessment. Except as provided in subsection (e), with respect to property that is not assessed under IC 6-1.1-7, the person must file the statement between March 1 and May 10, inclusive, of the assessment year. The person must file the statement in each year for which he desires to obtain the deduction. With respect to a property which is assessed under IC 6-1.1-7, the person must file the statement between January 15 and March 31, inclusive, of each year for which he desires to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the property for which the deduction is claimed is subject to assessment, the county auditor shall allow the deduction.

(b) The department of environmental management, upon application by a property owner, shall determine whether a system or device qualifies for a deduction provided by section 31, 33, or 34 of this chapter. If the department determines that a system or device qualifies for a deduction, it shall certify the system or device and provide proof of the certification to the property owner. The department shall prescribe the form and manner of the certification process required by this subsection.

(c) If the department of environmental management receives an application for certification before April 10 of the assessment year, the department shall determine whether the system or device qualifies for a deduction before May 10 of the assessment year. If the department fails to make a determination under this subsection before May 10 of the assessment year, the system or device is considered certified.

(d) A denial of a deduction claimed under section 31, 33, or 34 of this chapter may be appealed as provided in IC 6-1.1-15. The appeal is limited to a review of a determination made by the township assessor, county property tax assessment board of appeals, or state board of tax commissioners.

(e) A person who timely files a personal property return under IC 6-1.1-3-7(a) for an assessment year and who desires to claim the deduction provided in section 31 of this chapter for property that is not assessed under IC 6-1.1-7 must file the statement described in subsection (a) between March 1 and May 15, inclusive, of that year. A person who ~~obtains~~ **takes** a filing extension under IC 6-1.1-3-7(b) for an assessment year must file the application between March 1 and June 14, inclusive, of that year.

SECTION 22. IC 6-1.1-12-40 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: **Sec. 40. (a) This section applies only to real property that is located in an enterprise zone established in a county containing a consolidated city.**

(b) The owner of real property described in subsection (a) is entitled to a deduction under this section if:

(1) an obsolescence depreciation adjustment for either functional obsolescence or economic obsolescence was allowed for the property for property taxes assessed in the year preceding the year in which the owner purchased the property;

(2) the property owner submits an application requesting the deduction to the urban enterprise association established for the enterprise zone in which the property is located; and

(3) the urban enterprise association approves the deduction.

(c) If an urban enterprise association approves a deduction under this section, it must notify the county auditor of the approval of the deduction.

(d) A deduction may be claimed under this section for not more than four (4) years. The amount of the deduction under this section equals:

(1) the amount of the obsolescence depreciation adjustment for either functional obsolescence or economic obsolescence that was allowed for the property for property taxes assessed in the year preceding the year in which the owner purchased the property; multiplied by

(2) the following percentages:

(A) One hundred percent (100%), for property taxes assessed in the year in which the owner purchased the property.

(B) Seventy-five percent (75%), for property taxes assessed in the year after the year in which the owner purchased the property.

(C) Fifty percent (50%), for property taxes assessed in the second year after the year in which the owner purchased the property.

(D) Twenty-five percent (25%), for property taxes assessed in the third year after the year in which the owner purchased the property.

SECTION 23. IC 6-1.1-12.1-5.5, AS AMENDED BY P.L.4-2000, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5.5. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction application on forms prescribed by the state board of tax commissioners with:

(1) the auditor of the county in which the new manufacturing equipment or new research and development equipment, or both, is located; and

(2) the state board of tax commissioners.

A person that timely files a personal property return under IC 6-1.1-3-7(a) for the year in which the new manufacturing equipment or new research and development equipment, or both, is installed must file the application between March 1 and May 15 of that year. A person that ~~obtains~~ **takes** a filing extension under IC 6-1.1-3-7(b) for the year in which the new manufacturing equipment or new research and development equipment, or both, is installed must file the application between March 1 and June 14 of that year.

(b) The deduction application required by this section must contain the following information:

(1) The name of the owner of the new manufacturing equipment or new research and development equipment, or both.

(2) A description of the new manufacturing equipment or new research and development equipment, or both.

(3) Proof of the date the new manufacturing equipment or new research and development equipment, or both, was installed.

(4) The amount of the deduction claimed for the first year of the deduction.

(c) This subsection applies to a deduction application with respect to new manufacturing equipment or new research and development equipment, or both, for which a statement of benefits was initially approved after April 30, 1991. If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body and the designating body shall adopt a resolution under section 4.5(h)(2) of this chapter.

(d) A deduction application must be filed under this section in the year in which the new manufacturing equipment or new research and development equipment, or both, is installed and in each of the immediately succeeding years the deduction is allowed.

(e) The state board of tax commissioners shall review and verify the correctness of each deduction application and shall notify the county auditor of the county in which the property is located that the deduction application is approved or denied or that the amount of the deduction is altered. Upon notification of approval of the deduction application or of alteration of the amount of the deduction, the county auditor shall make the deduction. The county auditor shall notify the county property tax assessment board of appeals of all deductions approved under this section.

(f) If the ownership of new manufacturing equipment or new research and development equipment, or both, changes, the deduction provided under section 4.5 of this chapter continues to

apply to that equipment if the new owner:

(1) continues to use the equipment in compliance with any standards established under section 2(g) of this chapter; and

(2) files the deduction applications required by this section.

(g) The amount of the deduction is the percentage under section 4.5 of this chapter that would have applied if the ownership of the property had not changed multiplied by the assessed value of the equipment for the year the deduction is claimed by the new owner.

(h) If a person desires to initiate an appeal of the state board of tax commissioners' final determination, the person must do all of the following not more than forty-five (45) days after the state board of tax commissioners gives the person notice of the final determination:

(1) File a written notice with the state board of tax commissioners informing the board of the person's intention to appeal.

(2) File a complaint in the tax court.

(3) Serve the attorney general and the county auditor with a copy of the complaint.

SECTION 24. IC 6-1.1-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) After receiving a petition for review which is filed under section 3 of this chapter, the division of appeals of the state board of tax commissioners shall conduct a hearing at its earliest opportunity. In addition, the division of appeals of the state board may assess the property in question, correcting any errors which may have been made. **The state board of tax commissioners, including its division of appeals, is not required to assess the property in question. The state board of tax commissioners, including its division of appeals, may limit the scope of the appeal to the issues raised in the petition and the evaluation of the evidence presented in support of those issues.** The division of appeals of the state board shall give notice of the date fixed for the hearing, by mail, to the taxpayer and to the appropriate township assessor, county assessor, and county auditor. The division of appeals of the state board shall give these notices at least ~~ten (10)~~ **thirty (30)** days before the day fixed for the hearing.

(b) **The burden of persuasion and the burden of going forward with the proof is on the petitioner. There is a rebuttable presumption that the determination of the county property tax assessment board of appeals or other officer from which the appeal is taken is correct. The petitioner may rebut the presumption by presenting a prima facie case, supported by substantial and reliable evidence, that the determination is in error.**

(c) If a petition for review does not comply with the state board of tax commissioners' instructions for completing the form prescribed under section 3 of this chapter, the division of appeals of the state board of tax commissioners shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition. The division of appeals of the state board of tax commissioners shall deny a corrected petition for review if it does not substantially comply with the state board of tax commissioners' instructions for completing the form prescribed under section 3 of this chapter.

~~(c)~~ **(d)** The state board of tax commissioners shall prescribe a form for use in processing petitions for review of actions by the county property tax assessment board of appeals. The state board shall issue instructions for completion of the form. The form must require the division of appeals of the state board, to indicate agreement or disagreement with each item that is:

(1) indicated on the petition submitted under section 1(e) of this chapter;

(2) included in the township assessor's response under section 1(g) of this chapter; and

(3) included in the county property tax assessment board of appeals' findings, record, and determination under section 2.1(d) of this chapter.

The form must also require the division of appeals of the state board to indicate the issues in dispute and its reasons in support of its resolution of those issues.

~~(d)~~ **(e)** After the hearing the division of appeals of the state board shall give the petitioner, the township assessor, the county assessor, and the county auditor:

(1) notice, by mail, of its final determination;

(2) a copy of the form completed under subsection ~~(c);~~ **(d);** and

(3) notice of the procedures they must follow in order to obtain court review under section 5 of this chapter.

~~(e)~~ **(f) Except as provided in subsection (g),** the division of appeals of the state board of tax commissioners shall conduct a hearing within ~~six (6)~~ **nine (9)** months after a petition in proper form is filed with the division, excluding any time due to a delay reasonably caused by the petitioner.

(g) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the division of appeals of the state board of tax commissioners shall conduct a hearing within one (1) year after a petition in proper form is filed with the division, excluding any time due to a delay reasonably caused by the petitioner.

(h) Except as provided in subsection (i), the division of appeals shall make a determination within the later of ~~forty-five (45)~~ **ninety (90)** days after the hearing or the date set in an extension order issued by the chairman of the state board of tax commissioners. ~~However,~~

(i) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the division of appeals shall make a determination within the later of one hundred eighty (180) days after the hearing or the date set in an extension order issued by the chairman of the state board of tax commissioners.

(j) The state board of tax commissioners may not extend the final determination date **under subsection (h) or (i)** by more than one hundred eighty (180) days.

(k) Except as provided in subsection ~~(g):~~ **(l):**

(1) the failure of the division of appeals to make a determination within the time allowed by ~~this~~ subsection **(h) or (i)** shall be treated as a final determination of the state board of tax commissioners to deny the petition; and

(2) a final decision of the division of appeals is a final determination of the state board of tax commissioners.

~~(g)~~ **(l)** A final determination of the division of appeals is not a final determination of the state board of tax commissioners if the state board of tax commissioners:

(1) gives notice to the parties that the state board of tax commissioners will review the determination of the division of appeals within fifteen (15) days after the division of appeals gives notice of the determination to the parties or the maximum allowable time for the issuance of a determination under subsection ~~(f)~~ **(h) or (i)** expires; or

(2) determines to rehear the determination under section 5 of this chapter.

The state board of tax commissioners shall conduct a review under subdivision (1) in the same manner as a rehearing under section 5 of this chapter.

(m) A final determination must include separately stated findings of fact for all aspects of the determination. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. Findings must be based exclusively upon the evidence on the record in the proceeding and on matters officially noticed in the proceeding. Findings must be based upon evidence that is substantial and reliable. The hearing officer's experience, technical competence, and specialized knowledge may be used in evaluating evidence.

SECTION 25. IC 6-1.1-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) Within fifteen (15) days after the division of appeals of the state board of tax commissioners gives notice of its final determination under section 4 of this chapter to the party or the maximum allowable time for the issuance of a determination by the division of appeals under section 4 of this chapter expires, a party to the proceeding may request a rehearing before the board. The board may conduct a rehearing and affirm or modify its final determination, giving the same notices after the rehearing as are required by section 4 of this chapter. The state

board of tax commissioners has thirty (30) days after receiving a petition for a rehearing to determine whether to grant a rehearing. Failure to grant a rehearing within thirty (30) days after receiving the petition shall be treated as a final determination to deny the petition. A petition for a rehearing does not toll the time in which to file a petition for judicial review unless the petition for rehearing is granted. If the state board of tax commissioners determines to rehear a final determination of the division of appeals, the state board of tax commissioners:

(1) may conduct the additional hearings that the state board of tax commissioners determines necessary or review the written record of the division of appeals without additional hearings; and

(2) shall issue a final determination within ninety (90) days after notifying the parties that the state board of tax commissioners will rehear the determination.

Failure of the state board of tax commissioners to make a determination within the time allowed under subdivision (2) shall be treated as a final determination affirming the decision of the division of appeals.

(b) A person may appeal the final determination of the division of appeals or the state board of tax commissioners regarding the assessment of that person's tangible property. The appeal shall be taken to the tax court. Appeals may be consolidated at the request of the appellants if it can be done in the interest of justice.

(c) If a person desires to initiate an appeal of the state board of tax commissioners' final determination, the person shall:

(1) file a written notice with the state board of tax commissioners informing the board of his intention to appeal;

(2) file a complaint in the tax court; and

(3) serve the attorney general and the county assessor with a copy of the complaint.

(d) To initiate an appeal under this section, a person must take the action required by subsection (c) within:

(1) forty-five (45) days after the state board of tax commissioners gives the person notice of its final determination under IC 6-1.1-14-11 unless a rehearing is conducted under subsection (a);

(2) thirty (30) days after the board gives the person notice under subsection (a) of its final determination, if a rehearing is conducted under subsection (a) or the maximum time elapses for the state board of tax commissioners to make a determination under this section; or

(3) forty-five (45) days after the division of appeals gives notice of a final determination under section 4 of this chapter or the division fails to make a determination within the maximum time allowed under section 4 of this chapter, if a rehearing is not granted under this section.

(e) The failure of the state board of tax commissioners to conduct a hearing within the time period prescribed in section ~~4(b)~~ **4(f)** of this chapter does not constitute notice to the person of a board determination.

(f) In a case in which the final determination of the state board of tax commissioners would result in a claim by a taxpayer with respect to a particular year for a refund that exceeds:

(1) eight hundred thousand dollars ($800,000); or

(2) an amount equal to ten percent (10%) of the aggregate tax levies of all taxing units in the county for that year;

whichever is less, the county executive may take an appeal to the tax court in the manner prescribed in this section, but only upon request by the county assessor.

SECTION 26. IC 6-1.1-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. **(a)** If an appeal is initiated by a person under section 5 of this chapter, the secretary of the state board of tax commissioners shall prepare a certified ~~transcript~~ **record** of the proceedings related to the appeal. ~~However, the transcript shall not include the evidence compiled by the board with respect to the proceedings. The secretary of the board shall transmit the transcript to the clerk of the court designated by the appellant.~~

(b) The record for judicial review must include the following documents and items:

(1) Copies of all papers submitted to the state board of tax commissioners, including its division of appeals, during the course of the action and copies of all papers provided to the parties by the state board of tax commissioners, including its division of appeals. For purposes of this subdivision, the term "papers" includes, without limitation, all notices, petitions, motions, pleadings, orders, orders on rehearing, briefs, requests, intermediate rulings, photographs, and other written documents.

(2) Evidence received or considered by the state board of tax commissioners, including its division of appeals.

(3) A statement of whether a site inspection was conducted, and, if a site inspection was conducted, either:

(A) a summary report of the site inspection; or

(B) a videotape transcript of the site inspection.

(4) A statement of matters officially noticed.

(5) Proffers of proof and objections and rulings on them.

(6) Copies of proposed findings, requested orders, and exceptions.

(7) Either:

(A) a transcription of the audio tape of the hearing; or

(B) a transcript of the hearing prepared by a court reporter.

Copies of exhibits that, because of their nature, cannot be incorporated into the certified record must be kept by the state board of tax commissioners until the appeal is finally terminated. However, this evidence must be briefly named and identified in the transcript of the evidence and proceedings.

(c) If:

(1) a report of all or a part of the evidence or proceedings at a hearing conducted by the state board of tax commissioners, including its division of appeals, was not made; or

(2) a transcript is unavailable;

a party to the appeal initiated under section 5 of this chapter may prepare a statement of the evidence or proceedings. The statement must be submitted to the tax court and also must be served on all other parties. A party to the proceeding may serve objections or prepare amendments to the statement not later than ten (10) days after service.

SECTION 27. IC 6-1.1-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If a petition for review to any board or an appeal to the tax court regarding an assessment or increase in assessment is pending, the taxes resulting from the assessment or increase in assessment are, notwithstanding the provisions of IC 6-1.1-22-9, not due until after the petition for review, or the appeal, is finally adjudicated and the assessment or increase in assessment is finally determined. However, even though a petition for review or an appeal is pending, the taxpayer shall pay taxes on the tangible property when the property tax installments come due, unless the collection of the taxes is enjoined pending an original tax appeal under IC 33-3-5. The amount of taxes which the taxpayer is required to pay, pending the final determination of the assessment or increase in assessment, shall be based on:

(1) ~~the assessed value reported by the taxpayer on his~~ **an amount based on the immediately preceding year's assessment of** personal property ~~return~~ if ~~a personal property~~ **an** assessment, or ~~an~~ increase in ~~such~~ an assessment, **of personal property** is involved; or

(2) an amount based on the immediately preceding year's assessment of real property if an assessment, or increase in assessment, of real property is involved.

(b) If the petition for review or the appeal is not finally determined by the last installment date for the taxes, the taxpayer, upon showing of cause by a taxing official or at the tax court's discretion, may be required to post a bond or provide other security in an amount not to exceed the taxes resulting from the contested assessment or increase in assessment.

(c) Each county auditor shall keep separate on the tax duplicate a record of that portion of the assessed value of property on which a

taxpayer is not required to pay taxes under subsection (a). When establishing rates and calculating state school support, the state board of tax commissioners shall recognize the fact that a taxpayer is not required to pay taxes under certain circumstances.

SECTION 28. IC 6-1.1-18.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this chapter:

"Ad valorem property tax levy for an ensuing calendar year" means the total property taxes imposed by a civil taxing unit for current property taxes collectible in that ensuing calendar year.

"Adopting county" means any county in which the county adjusted gross income tax is in effect.

"Civil taxing unit" means any taxing unit except a school corporation.

"Maximum permissible ad valorem property tax levy for the preceding calendar year" means the greater of:

(1) the civil taxing unit's maximum permissible ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined under section 3 of this chapter; or

(2) the civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined by the state board of tax commissioners in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17.

"Taxable property" means all tangible property that is subject to the tax imposed by this article and is not exempt from the tax under IC 6-1.1-10 or any other law. For purposes of sections 2 and 3 of this chapter, the term "taxable property" is further defined in section 6 of this chapter.

"Unadjusted assessed value" means the assessed value of a civil taxing unit as determined by local assessing officials and the state board of tax commissioners in a particular calendar year before the application of an annual adjustment under IC 6-1.1-4-4.5 for that particular calendar year or any calendar year since the last general reassessment preceding the particular calendar year.

SECTION 29. IC 6-1.1-18.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) **This subsection applies to a calendar year ending before January 1, 2006.** For purposes of determining a civil taxing unit's maximum permissible ad valorem property tax levy for an ensuing calendar year, the civil taxing unit shall use the assessed value growth quotient determined in the last STEP of the following STEPS:

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the civil taxing unit's total assessed value of all taxable property in the particular calendar year, divided by the civil taxing unit's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Determine the greater of the result computed in STEP THREE or one and five-hundredths (1.05).

STEP FIVE: Determine the lesser of the result computed in STEP FOUR or one and one-tenth (1.1).

(b) **This subsection applies to a calendar year beginning after December 31, 2005. For purposes of determining a civil taxing unit's maximum permissible ad valorem property tax levy for an ensuing calendar year, the civil taxing unit shall use the assessed value growth quotient determined in the last STEP of the following STEPS:**

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the civil taxing unit's total unadjusted assessed value of all taxable property in the particular calendar year, divided by the civil taxing unit's total unadjusted assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Determine the greater of the result computed in STEP THREE or one and five-hundredths (1.05).

STEP FIVE: Determine the lesser of the result computed in STEP FOUR or one and one-tenth (1.1).

(c) This subsection applies to a calendar year ending before January 1, 2006. If the assessed values of taxable property used in determining a civil taxing unit's property taxes that are first due and payable in a particular calendar year are significantly increased over the assessed values used for the immediately preceding calendar year's property taxes due to the settlement of litigation concerning the general reassessment of that civil taxing unit's real property, then for purposes of determining that civil taxing unit's assessed value growth quotient for an ensuing calendar year, the state board of tax commissioners shall replace the quotient described in STEP TWO of subsection (a) for that particular calendar year. The state board of tax commissioners shall replace that quotient with one that as accurately as possible will reflect the actual growth in the civil taxing unit's assessed values of real property from the immediately preceding calendar year to that particular calendar year.

(d) This subsection applies to a calendar year beginning after December 31, 2005. If the unadjusted assessed values of taxable property used in determining a civil taxing unit's property taxes that are first due and payable in a particular calendar year are significantly increased over the unadjusted assessed values used for the immediately preceding calendar year's property taxes due to the settlement of litigation concerning the general reassessment of that civil taxing unit's real property, then for purposes of determining that civil taxing unit's assessed value growth quotient for an ensuing calendar year, the state board of tax commissioners shall replace the quotient described in STEP TWO of subsection (b) for that particular calendar year. The state board of tax commissioners shall replace that quotient with one that, as accurately as possible, will reflect the actual growth in the civil taxing unit's unadjusted assessed values of real property from the immediately preceding calendar year to that particular calendar year.

SECTION 30. IC 6-1.1-18.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Except as otherwise provided in this chapter, a civil taxing unit that is treated as not being located in an adopting county under section 4 of this chapter may not impose an ad valorem property tax levy for an ensuing calendar year that exceeds the amount determined in the last STEP of the following STEPS:

STEP ONE: Add the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year to the part of the civil taxing unit's certified share, if any, that was used to reduce the civil taxing unit's ad valorem property tax levy under STEP EIGHT of subsection (b) for that preceding calendar year.

STEP TWO: Multiply the amount determined in STEP ONE by the amount determined in **either** the last STEP of section 2 **(a)** of this chapter **for calendar years ending before January 1, 2006, or the last STEP of section 2(b) of this chapter for calendar years beginning after December 31, 2005.**

STEP THREE: Determine the lesser of one and fifteen hundredths (1.15) or the quotient (rounded to the nearest ten-thousandth), of the assessed value of all taxable property subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year, divided by the assessed value of all taxable property that is subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year and that is contained within the geographic area that was subject to the

civil taxing unit's ad valorem property tax levy in the preceding calendar year.

STEP FOUR: Determine the greater of the amount determined in STEP THREE or one (1).

STEP FIVE: Multiply the amount determined in STEP TWO by the amount determined in STEP FOUR.

STEP SIX: Add the amount determined under STEP TWO to the amount determined under subsection (c).

STEP SEVEN: Determine the greater of the amount determined under STEP FIVE or the amount determined under STEP SIX.

(b) Except as otherwise provided in this chapter, a civil taxing unit that is treated as being located in an adopting county under section 4 of this chapter may not impose an ad valorem property tax levy for an ensuing calendar year that exceeds the amount determined in the last STEP of the following STEPS:

STEP ONE: Add the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year to the part of the civil taxing unit's certified share, if any, used to reduce the civil taxing unit's ad valorem property tax levy under STEP EIGHT of this subsection for that preceding calendar year.

STEP TWO: Multiply the amount determined in STEP ONE by the amount determined in **either** the last STEP of section 2 **(a)** of this chapter **for calendar years ending before January 1, 2006, or the last STEP of section 2(b) of this chapter for calendar years beginning after December 31, 2005.**

STEP THREE: Determine the lesser of one and fifteen hundredths (1.15) or the quotient of the assessed value of all taxable property subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year divided by the assessed value of all taxable property that is subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year and that is contained within the geographic area that was subject to the civil taxing unit's ad valorem property tax levy in the preceding calendar year.

STEP FOUR: Determine the greater of the amount determined in STEP THREE or one (1).

STEP FIVE: Multiply the amount determined in STEP TWO by the amount determined in STEP FOUR.

STEP SIX: Add the amount determined under STEP TWO to the amount determined under subsection (c).

STEP SEVEN: Determine the greater of the amount determined under STEP FIVE or the amount determined under STEP SIX.

STEP EIGHT: Subtract the amount determined under STEP FIVE of subsection (e) from the amount determined under STEP SEVEN of this subsection.

(c) If a civil taxing unit in the immediately preceding calendar year provided an area outside its boundaries with services on a contractual basis and in the ensuing calendar year that area has been annexed by the civil taxing unit, the amount to be entered under STEP SIX of subsection (a) or STEP SIX of subsection (b), as the case may be, equals the amount paid by the annexed area during the immediately preceding calendar year for services that the civil taxing unit must provide to that area during the ensuing calendar year as a result of the annexation. In all other cases, the amount to be entered under STEP SIX of subsection (a) or STEP SIX of subsection (b), as the case may be, equals zero (0).

(d) This subsection applies only to civil taxing units located in a county having a county adjusted gross income tax rate for resident county taxpayers (as defined in IC 6-3.5-1.1-1) of one percent (1%) as of January 1 of the ensuing calendar year. For each civil taxing unit, the amount to be added to the amount determined in subsection (e), STEP FOUR, is determined using the following formula:

STEP ONE: Multiply the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year by two percent (2%).

STEP TWO: For the determination year, the amount to be used as the STEP TWO amount is the amount determined in subsection (f) for the civil taxing unit. For each year following the determination year the STEP TWO amount is the lesser of:

(A) the amount determined in STEP ONE; or

(B) the amount determined in subsection (f) for the civil taxing unit.

STEP THREE: Determine the greater of:

(A) zero (0); or

(B) the civil taxing unit's certified share for the ensuing calendar year minus the greater of:

(i) the civil taxing unit's certified share for the calendar year that immediately precedes the ensuing calendar year; or

(ii) the civil taxing unit's base year certified share.

STEP FOUR: Determine the greater of:

(A) zero (0); or

(B) the amount determined in STEP TWO minus the amount determined in STEP THREE.

Add the amount determined in STEP FOUR to the amount determined in subsection (e), STEP THREE, as provided in subsection (e), STEP FOUR.

(e) For each civil taxing unit, the amount to be subtracted under subsection (b), STEP EIGHT, is determined using the following formula:

STEP ONE: Determine the lesser of the civil taxing unit's base year certified share for the ensuing calendar year, as determined under section 5 of this chapter, or the civil taxing unit's certified share for the ensuing calendar year.

STEP TWO: Determine the greater of:

(A) zero (0); or

(B) the remainder of:

(i) the amount of federal revenue sharing money that was received by the civil taxing unit in 1985; minus

(ii) the amount of federal revenue sharing money that will be received by the civil taxing unit in the year preceding the ensuing calendar year.

STEP THREE: Determine the lesser of:

(A) the amount determined in STEP TWO; or

(B) the amount determined in subsection (f) for the civil taxing unit.

STEP FOUR: Add the amount determined in subsection (d), STEP FOUR, to the amount determined in STEP THREE.

STEP FIVE: Subtract the amount determined in STEP FOUR from the amount determined in STEP ONE.

(f) As used in this section, a taxing unit's "determination year" means the latest of:

(1) calendar year 1987, if the taxing unit is treated as being located in an adopting county for calendar year 1987 under section 4 of this chapter;

(2) the taxing unit's base year, as defined in section 5 of this chapter, if the taxing unit is treated as not being located in an adopting county for calendar year 1987 under section 4 of this chapter; or

(3) the ensuing calendar year following the first year that the taxing unit is located in a county that has a county adjusted gross income tax rate of more than one-half percent (0.5%) on July 1 of that year.

The amount to be used in subsections (d) and (e) for a taxing unit depends upon the taxing unit's certified share for the ensuing calendar year, the taxing unit's determination year, and the county adjusted gross income tax rate for resident county taxpayers (as defined in IC 6-3.5-1.1-1) that is in effect in the taxing unit's county on July 1 of the year preceding the ensuing calendar year. For the determination year and the ensuing calendar years following the taxing unit's determination year, the amount is the taxing unit's certified share for the ensuing calendar year multiplied by the appropriate factor prescribed in the following table:

COUNTIES WITH A TAX RATE OF 1/2%

Year	Subsection (e) Factor
For the determination year and each ensuing calendar year following the determination year	0

COUNTIES WITH A TAX RATE OF 3/4%

Year	Subsection (e) Factor
For the determination year and each ensuing calendar year following the determination year	1/2

COUNTIES WITH A TAX RATE OF 1.0%

Year	Subsection (d) Factor	Subsection (e) Factor
For the determination year	1/6	1/3
For the ensuing calendar year following the determination year	1/4	1/3
For the ensuing calendar year following the determination year by two (2) years	1/3	1/3

SECTION 31. IC 6-1.1-18.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) For purposes of STEP TWO of section 2**(a)** of this chapter **and STEP TWO of section 2(b) of this chapter,** the civil taxing unit's taxable property includes all taxable property located in the geographic area subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year, regardless of whether that property was located in the geographic area subject to the civil taxing unit's ad valorem property tax levy in the calendar years for which the computation is made.

(b) For purposes of STEP TWO of section 2**(a)** of this chapter, STEP THREE of section 3(a) of this chapter, and STEP THREE of section 3(b) of this chapter, the assessed value of taxable property is the assessed value of that property as determined by the state board of tax commissioners in fixing the civil taxing unit's budget, levy, and rate for the applicable calendar year, excluding deductions allowed under IC 6-1.1-12 or IC 6-1.1-12.1.

SECTION 32. IC 6-1.1-18.5-13, AS AMENDED BY P.L.6-1997, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. With respect to an appeal filed under section 12 of this chapter, the local government tax control board may recommend that a civil taxing unit receive any one (1) or more of the following types of relief:

(1) Permission to the civil taxing unit to reallocate the amount set aside as a property tax replacement credit as required by IC 6-3.5-1.1 for a purpose other than property tax relief. However, whenever this occurs, the local government tax control board shall also state the amount to be reallocated.

(2) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the local government tax control board the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons.

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's share of the costs of operating a court for the first full calendar year in which it is in existence.

(4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the civil taxing unit's average three (3) year growth factor, as determined in section 2**(a)** (STEP THREE) of this chapter **for calendar years ending before January 1, 2006, or section 2(b) (STEP THREE) of this chapter for calendar years beginning after December 31, 2005,** exceeds one and one-tenth (1.1). However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision may not exceed an amount equal to the remainder of:

(A) the amount of ad valorem property taxes the civil taxing unit could impose for the ensuing calendar year under section 3 of this chapter if at STEP TWO of subsection (a) or (b), as the case may be, the amount determined in STEP THREE of section 2**(a)** of this chapter **for calendar years ending before January 1, 2006, or in STEP THREE of section 2(b) of this chapter for calendar years beginning after December 31, 2005,** is substituted for the amount determined under STEP FIVE of section 2**(a)** of this chapter **for calendar years ending before January 1, 2006, or under STEP FIVE of section 2(b) of this chapter for calendar years beginning after December 31, 2005;** minus

(B) the amount of ad valorem property taxes the civil taxing unit could impose under section 3 of this chapter for the ensuing calendar year.

In addition, before the local government tax control board may recommend the relief allowed under this subdivision, the civil taxing unit must show a need for the increased levy because of special circumstances, and the local government tax control board must consider other sources of revenue and other means of relief.

(5) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars ($10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under IC 6-1.1-18.5; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(6) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(7) Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's poor relief ad valorem property tax rate is less than one and sixty-seven hundredths cents ($0.0167) per one hundred dollars ($100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing poor relief under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's poor relief ad valorem property tax rate of one and sixty-seven hundredths cents ($0.0167) per one hundred dollars ($100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars ($100) of assessed valuation before the increase.

(8) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent ($0.01) per one hundred dollars ($100) of assessed valuation.

(9) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred twenty-nine thousand (129,000) but less than one hundred thirty thousand six hundred (130,600);

(ii) a city having a population of more than forty-three thousand seven hundred (43,700) but less than forty-four thousand (44,000);

(iii) a city having a population of more than twenty-five thousand five hundred (25,500) but less than twenty-six thousand (26,000);

(iv) a city having a population of more than fifteen thousand three hundred fifty (15,350) but less than fifteen thousand five hundred seventy (15,570); or

(v) a city having a population of more than five thousand six hundred fifty (5,650) but less than five thousand seven hundred eight (5,708); and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-7-8.7-1) and remedial action (as defined in IC 13-7-8.7-1) relating to hazardous substances (as defined in IC 13-7-8.7-1) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents ($0.0667) for each one hundred dollars ($100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(10) Permission for a county having a population of more than seventy-eight thousand (78,000) but less than eighty-five thousand (85,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991. Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(11) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

SECTION 33. IC 6-1.1-20.8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) A person that desires to claim the credit provided by section 1 of this chapter shall file a certified application, on forms prescribed by the state board of tax commissioners, with:

(1) the auditor of the county where the property for which the credit is claimed was located on the assessment date; and

(2) the state board of tax commissioners.

A person that timely files a personal property return under IC 6-1.1-3-7(a) for an assessment year must file the application between March 1 and May 15 of that year in order to obtain the credit in the following year. A person that ~~obtains~~ **takes** a filing extension under IC 6-1.1-3-7(b) for an assessment year must file the application between March 1 and June 14 of that year in order to obtain the credit in the following year.

(b) A taxpayer shall include on an application filed under this section all information that the state board of tax commissioners requires to determine eligibility for the credit provided under this chapter.

(c) Compliance with this chapter does not exempt a person from compliance with IC 4-4-6.1-2.5.".

Page 7, line 15, after "1." insert "**(a)**".

Page 7, line 18, delete "Except for" and insert "**In addition to**".

Page 7, line 19, delete "an" and insert "**only one (1) other**".

Page 7, line 20, delete "not".

Page 7, line 29, delete ", unless" and insert "**.**".

Page 7, line 30, delete "the county assessor is a certified level two assessor-appraiser." and insert "**However, if the county assessor is a certified level 2 Indiana assessor-appraiser, the board of county commissioners may waive the requirement in this subsection that one (1) of the freehold members appointed by the board of county commissioners must be a certified level 2 Indiana assessor-appraiser.**".

Page 7, between lines 41 and 42, begin a new paragraph and insert:

"**(b) The county assessor, county fiscal body, and board of county commissioners may agree to waive the requirement in subsection (a) that not more than three (3) of the five (5) members of the county property tax assessment board of appeals may be of the same political party if it is necessary to waive the requirement due to the absence of certified level 2 Indiana assessor-appraisers:**

(1) who are willing to serve on the board; and

(2) whose political party membership status would satisfy the requirement in subsection (c)(1).

(c) If the board of county commissioners is not able to identify at least two (2) prospective freehold members of the county property tax assessment board of appeals who are:

(1) residents of the county;

(2) certified level 2 Indiana assessor-appraisers; and

(3) willing to serve on the county property tax assessment board of appeals;

it is not necessary that at least three (3) of the five (5) members of the county property tax assessment board of appeals be residents of the county.".

Page 11, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 41. IC 6-1.1-37-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) If a person fails to file a required personal property return on or before the due date, the county auditor shall add a penalty of twenty-five dollars ($25) to the person's next property tax installment. The county auditor shall also add an additional penalty to the taxes payable by the person if he fails to file the personal property return within thirty (30) days after the due date. The amount of the additional penalty is twenty percent (20%) of the taxes finally determined to be due with respect to the personal property which should have been reported on the return.

(b) For purposes of this section, a personal property return is not due until the expiration of any extension period ~~granted~~ **taken** by the ~~township assessor~~ **person** under IC 6-1.1-3-7(b).

(c) The penalties prescribed under this section do not apply to an individual or his dependents if he:

(1) is in the military or naval forces of the United States on the assessment date; and

(2) is covered by the federal Soldiers' and Sailors' Civil Relief Act.

(d) If a person subject to IC 6-1.1-3-7(d) fails to include on a personal property return the information, if any, that the state board of tax commissioners requires under IC 6-1.1-3-9 or IC 6-1.1-5-13, the county auditor shall add a penalty to the property tax installment next due for the return. The amount of the penalty is twenty-five dollars ($25).

(e) If the total assessed value that a person reports on a personal property return is less than the total assessed value that the person is required by law to report and if the amount of the undervaluation exceeds five percent (5%) of the value that should have been reported on the return, then the county auditor shall add a penalty of twenty percent (20%) of the additional taxes finally determined to be due as a result of the undervaluation. The penalty shall be added to the property taxinstallment next due for the return on which the property was undervalued. If a person has complied with all of the requirements for claiming a deduction, an exemption, or an adjustment for abnormal obsolescence, then the increase in assessed value that results from a denial of the deduction, exemption, or adjustment for abnormal obsolescence is not considered to result from an undervaluation for purposes of this subsection.

(f) A penalty is due with an installment under subsection (a), (d), or (e) whether or not an appeal is filed under IC 6-1.1-15-5 with respect to the tax due on that installment.

SECTION 42. IC 6-1.1-40-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) A person that desires to obtain the deduction provided by section 10 of this chapter must file a certified deduction application, on forms prescribed by the state board of tax commissioners, with:

(1) the auditor of the county in which the new manufacturing equipment and inventory is located; and

(2) the state board of tax commissioners.

A person that timely files a personal property return under IC 6-1.1-3-7(a) for the year in which the new manufacturing equipment is installed or the inventory is subject to assessment must file the application between March 1 and May 15 of that year. A person that ~~obtains~~ **takes** a filing extension under IC 6-1.1-3-7(b) for the year in which the new manufacturing equipment is installed or the inventory is subject to assessment must file the application between March 1 and June 14 of that year.

(b) The application required by this section must contain the following information:

(1) The name of the owner of the new manufacturing equipment and inventory.

(2) A description of the new manufacturing equipment and inventory.

(3) Proof of the date the new manufacturing equipment was installed.

(4) The amount of the deduction claimed for the first year of the deduction.

(c) A deduction application must be filed under this section in the year in which the new manufacturing equipment is installed or the inventory is subject to assessment and in each of the immediately succeeding nine (9) years.

(d) The state board of tax commissioners shall review and verify the correctness of each application and shall notify the county auditor of the county in which the property is located that the application is approved or denied or that the amount of the deduction is altered. Upon notification of approval of the application or of alteration of the amount of the deduction, the county auditor shall make the deduction.

(e) If the ownership of new manufacturing equipment changes, the deduction provided under section 10 of this chapter continues to apply to that equipment if the new owner:

(1) continues to use the equipment in compliance with any standards established under section 7(c) of this chapter; and

(2) files the applications required by this section.

(f) The amount of the deduction is:

(1) the percentage under section 10 of this chapter that would have applied if the ownership of the property had not changed; multiplied by

(2) the assessed value of the equipment for the year the deduction is claimed by the new owner.

SECTION 43. IC 14-23-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2001 (RETROACTIVE)]: Sec. 3. Annually there shall be levied and collected as other state taxes are levied and collected the amount of ~~six and one-half (6 1/2) mills~~ **two hundred sixteen-thousandths of one cent ($0.00216)** upon each one hundred dollars ($100) worth of taxable property in Indiana. The money collected shall be paid into the fund.

SECTION 44. IC 33-3-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. **(a) Subject to subsection (b),** with respect to determinations as to whether any issues or evidence may be heard in an original tax appeal that was not heard in the administrative hearing or proceeding, the tax court is governed by the law that applied before the creation of the tax court to appeals to trial courts of final determinations made by the department of state revenue and the state board of tax commissioners.

(b) This subsection applies only to a proceeding in a matter described in IC 6-1.1-30-11(c). This subsection does not apply to an appeal under IC 6-1.1-8-29 or any other determination of the state board of tax commissioners not described in IC 6-1.1-30-11(c). Judicial review of disputed issues of fact must be confined to:

(1) the record of the proceeding before the state board of tax commissioners, including its division of appeals; and

(2) any additional evidence taken under section 14.5 of this chapter.

The tax court may not try the cause de novo or substitute its judgment for that of the state board of tax commissioners, including its division of appeals. Judicial review is limited to only those issues raised before the state board of tax commissioners, including its division of appeals, or otherwise described by the state board of tax commissioners, including its division of appeals, in its final determination.

(c) A person may obtain judicial review of an issue that was not raised before the state board of tax commissioners only to the extent that the:

(1) issue concerns whether a person who was required to be notified of the commencement of a proceeding under this chapter was notified in substantial compliance with the applicable law; or

(2) interests of justice would be served by judicial resolution of

an issue arising from a change in controlling law occurring after the state board of tax commissioners' action.

SECTION 45. IC 33-3-5-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 14.5. (a) This section applies only to proceedings in a matter described in IC 6-1.1-30-11(c). This subsection does not apply to an appeal under IC 6-1.1-8-29 or any other determination of the state board of tax commissioners not described in IC 6-1.1-30-11(c).**

(b) The tax court may receive evidence in addition to that contained in the record of the determination of the state board of tax commissioners, including its division of appeals, only if it relates to the validity of the determination at the time it was taken and is needed to decide disputed issues regarding one (1) or both of the following:

(1) Improper constitution as a decision making body or grounds for disqualification of those taking the agency action.

(2) Unlawfulness of procedure or decision making process.

This subsection applies only if the additional evidence could not, by due diligence, have been discovered and raised in the administrative proceeding giving rise to a proceeding for judicial review.

(c) The tax court may remand a matter to the state board of tax commissioners before final disposition of a petition for review with directions that the state board of tax commissioners or its division of appeals, as appropriate, conduct further factfinding or that the state board of tax commissioners or its division of appeals, as appropriate, prepare an adequate record, if:

(1) the state board of tax commissioners or its division of appeals failed to prepare or preserve an adequate record;

(2) the state board of tax commissioners or its division of appeals improperly excluded or omitted evidence from the record; or

(3) a relevant law changed after the action of the state board of tax commissioners or its division of appeals and the tax court determines that the new provision of law may control the outcome.

(d) This subsection applies if the record for a judicial review prepared under IC 6-1.1-15-6 contains an inadequate record of a site inspection. Rather than remand a matter under subsection (c), the tax court may take additional evidence not contained in the record relating only to observations and other evidence collected during a site inspection conducted by a hearing officer or other employee of the state board of tax commissioners. The evidence may include the testimony of a hearing officer only for purposes of verifying or rebutting evidence regarding the site inspection that is already contained in the record.

SECTION 46. IC 33-3-5-14.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 14.7. (a) This section applies only to proceedings in a matter described in IC 6-1.1-30-11(c). This subsection does not apply to an appeal under IC 6-1.1-8-29 or any other determination of the state board of tax commissioners not described in IC 6-1.1-30-11(c).**

(b) The burden of demonstrating the invalidity of an action taken by the state board of tax commissioners, including its division of appeals, is on the party to the judicial review proceeding asserting the invalidity.

(c) The validity of an action taken by the state board of tax commissioners, including its division of appeals, shall be determined in accordance with the standards of review provided in this section as applied to the agency action at the time it was taken.

(d) The tax court shall make findings of fact on each material issue on which the court's decision is based.

(e) The tax court shall grant relief under section 15 of this chapter only if the tax court determines that a person seeking judicial relief has been prejudiced by an action by the state board of tax commissioners, including its division of appeals, that is:

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(4) without observance of procedure required by law; or

(5) unsupported by substantial and reliable evidence.".

Page 12, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 50. IC 36-6-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) A township assessor who becomes a certified level 2 Indiana assessor-appraiser is entitled to a salary increase of one thousand dollars ($1,000) after ~~his~~ **the assessor's** certification under IC 6-1.1-35.5.

(b) A certified level 2 Indiana assessor-appraiser who replaces a township assessor who is not so certified is entitled to a salary of one thousand dollars ($1,000) more than ~~his predecessor's~~ **the** salary **of the person's predecessor.**

(c) **An employee of a township assessor who becomes a certified level 2 Indiana assessor-appraiser is entitled to a salary increase of five hundred dollars ($500) after the employee's certification under IC 6-1.1-35.5.**

(d) A salary increase under this section comprises a part of the township assessor's **or employee's** base salary for as long as ~~he~~ **the person** serves in that position **and maintains the level 2 certification.**".

Page 13, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 53. [EFFECTIVE JANUARY 1, 2002] **IC 6-1.1-12-40, as added by this act, applies only to property taxes first due and payable after December 31, 2001.**

SECTION 54. [EFFECTIVE JULY 1, 2001] **(a) The following, each as amended by this act, apply to property taxes due and payable after December 31, 2002:**

IC 6-1.1-3-7
IC 6-1.1-3-7.5
IC 6-1.1-12-28.5
IC 6-1.1-12-35
IC 6-1.1-12.1-5.5
IC 6-1.1-20.8-2
IC 6-1.1-37-7
IC 6-1.1-40-11

(b) This SECTION expires January 1, 2004.

SECTION 55. [EFFECTIVE UPON PASSAGE] **IC 6-1.1-15-10, as amended by this act, applies to property taxes first due and payable after December 31, 2000.**

SECTION 56. [EFFECTIVE JULY 1, 2001] **(a) IC 6-1.1-15-4, as amended by this act, applies to appeal petitions filed under IC 6-1.1-15-3 after June 30, 2001.**

(b) This SECTION expires January 1, 2003.

SECTION 57. [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: **(a) This section applies to a not for profit fraternal organization that:**

(1) owns property and conducts the business of the organization in a city having a population of more than thirty-five thousand (35,000) but less than thirty-seven thousand (37,000);

(2) previously was determined by the auditor of the county in which the property is located to be eligible to receive the property tax exemption under IC 6-1.1-10-16(b); and

(3) is not eligible for the property tax exemption under IC 6-1.1-10-16(b) for property taxes due and payable in 2001 because the not for profit fraternal organization failed to timely file an application under IC 6-1.1-11-3.5.

(b) Notwithstanding IC 6-1.1-11-3.5, the auditor of the county in which the property described in subsection (a)(1) is located shall

(1) waive noncompliance with the timely filing requirement for the exemption application in question; and

(2) make the appropriate exemption.

(c) A property tax exemption granted under this SECTION applies to property taxes first due and payable after December 31, 2000.

(d) This SECTION expires December 31, 2001.

SECTION 58. [EFFECTIVE JULY 1, 2001] **(a) To the extent allowable under the Constitution of the State of Indiana and the Constitution of the United States, IC 6-1.1-15-4, IC 6-1.1-15-5, IC 6-1.1-15-6, and IC 33-3-5-14, all as amended by this act, and IC 33-3-5-14.5 and IC 33-3-5-14.7, both as added by this act, apply to all of the following:**

(1) Proceedings in matters described in IC 6-1.1-30-11(c) that

are pending before the state board of tax commissioners, including its division of appeals, on July 1, 2001.

(2) Proceedings in matters described in IC 6-1.1-30-11(c) that are pending before the tax court on July 1, 2001.

(3) Proceedings in matters described in IC 6-1.1-30-11(c) that are commenced in or remanded to the state board of tax commissioners, including its division of appeals, after June 30, 2001.

(4) Proceedings in matters described in IC 6-1.1-30-11(c) that are commenced in or remanded to the tax court after June 30, 2001.

(b) The enactment of legislation by the general assembly to change the adjudication and judicial review procedures applicable to matters described in IC 6-1.1-30-11(c) shall not be construed to change the procedures applicable to the adjudication and judicial review of other matters appealable to the tax court.

SECTION 59. [EFFECTIVE JULY 1, 2001] **(a) For purposes of this SECTION, a taxing district in a township includes a taxing district located wholly or partially in the township.**

(b) Before November 1, 2004, the state board of tax commissioners shall publish a report listing the assessed value of all exempt property in each taxing district in the state listed in the tax duplicate prepared under IC 6-1.1-22-3 for March 1, 2004.

(c) The state board of tax commissioners shall adopt rules under IC 4-22-2 to carry out this section.

(d) This SECTION expires January 1, 2006.

SECTION 60. [EFFECTIVE UPON PASSAGE] **(a) The state board of tax commissioners shall adopt the rules required by IC 6-1.1-10-36.5, as amended by this act, before July 1, 2002.**

(b) This SECTION expires July 1, 2004.".

Renumber all SECTIONS consecutively.

(Reference is to HB 1499 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 24, nays 1.

BAUER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1574, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 36-8-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The 1925 fund is derived from the following sources:

(1) From money or other property that is given to the local board for the use of the fund. The local board may take by gift, grant, devise, or bequest of any money, chose in action, personal property, or real property, or an interest in it. The local board shall take the property in the name of the local board and may hold, assign, transfer, or sell it.

(2) From money, fees, and awards that are paid or given to the police department of the municipality or to a member of the department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, as well as the proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and sold at a public sale in accordance with law.

(3) From an assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member whom the local board has accepted and designated as a beneficiary of the 1925 fund, an amount equal to six percent (6%) of the salary of a first class patrolman. However, the employer may pay all or a part of the assessment for the member.

(4) From amounts transferred from a public safety user fee revenue fund established under IC 36-8-8.5 or IC 36-8-8.7.

(b) The secretary of the local board shall prepare a roll of each of the assessments **made under subsection (a)(3)** and place opposite the name of every member of the police department the amount of the assessment against him. The treasurer of the local board shall retain out of the salary paid to the member each month the amount of the assessment, other than any amount paid on behalf of the member, and credit it to the 1925 fund. Except to the extent the assessment is paid on behalf of the member, every person becoming a member of the police department is liable for the payment of the assessments and is conclusively considered to agree to pay it and have it deducted from his salary as required in this section.

SECTION 2. IC 36-8-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits, pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the municipality is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1925 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 4(a) of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible to and expect to retire during the ensuing fiscal year, and to the dependents of deceased members.

(b) The local board may provide in its annual budget and pay all necessary expenses of operating the 1925 fund, including the payment of all costs of litigation and attorney fees arising in connection with the fund, as well as the payment of benefits and pensions. Notwithstanding any other law, neither the municipal legislative body, the county board of tax adjustment, nor the state board of tax commissioners may reduce an item of expenditure.

(c) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing:

(1) the name, age, and date of retirement of each retired member and the monthly and yearly amount of the payment to which the retired member is entitled;

(2) the name and age of each member who is eligible to and expects to retire during the next fiscal year, the date on which the member expects to retire, and the monthly and yearly amount of the payment that the member will be entitled to receive; and

(3) the name and age of each dependent, the date on which the dependent became a dependent, the date on which the dependent will cease to be a dependent by reason of his attaining the age at which dependents cease to be dependents, and the monthly and yearly amount of the payment to which the dependent is entitled.

(d) The total receipts shall be deducted from the total expenditures stated in the itemized estimate and the amount of the excess of the estimated expenditures over the estimated receipts shall be paid by the municipality in the same manner as other expenses of the municipality are paid. A tax levy shall be made annually for this purpose, as provided in subsection (e). The estimates submitted shall be prepared and filed in the same manner and form and at the same time that estimates of other municipal offices and departments are prepared and filed.

(e) **Except as provided in subsection (f),** the ~~municipal~~ legislative body shall levy an annual tax in the amount and at the rate that are necessary to produce the revenue to pay that part of the police pensions that the municipality is obligated to pay. All money derived from the levy is for the exclusive use of the police pensions and benefits. The amounts in the estimated disbursements, if found to be correct and in conformity with the data submitted in the certified statement, are a binding obligation upon the municipality. The legislative body shall make a levy for them that will yield an amount

equal to the estimated disbursements, less the amount of the estimated receipts. Notwithstanding any other law, neither the county board of tax adjustment nor the state board of tax commissioners may reduce the levy.

(f) Notwithstanding subsection (e), the legislative body is not required to levy an annual tax if amounts transferred from a public safety user fee revenue fund established under IC 36-8-8.5 or IC 36-8-8.7 and credited to the 1925 fund are sufficient to produce the revenue to pay that part of the police pensions that the municipality is obligated to pay under this chapter.

SECTION 3. IC 36-8-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. The 1937 fund is derived from the following sources:

(1) From all money and other property that is given to the local board or 1937 fund for the uses and purposes for which the fund is created. The local board may take by gift, grant, devise, or bequest any money, personal property, real estate, or an interest in it. The gift, grant, devise, or bequest may be absolute or in fee simple or upon the condition that only the rents, income, or profits arising from it may be applied to the purposes for which the fund is established.

(2) All money, fees, rewards, or emoluments that are paid, given, devised, or bequeathed to the fire department or one (1) of the fire companies.

(3) All money accruing as interest on the securities or investments that are owned by and held in the name of the local board.

(4) All money received by the local board from the sale or by the maturity of securities or investments owned by the local board.

(5) An assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member equal to six percent (6%) of the salary of a fully paid first class firefighter. However, the employer may pay all or a part of the assessment for the member. The secretary of the fire department, or the person whose duty it is to make out the payrolls, shall place on the payroll opposite the name of every member the amount of assessment on his salary. The unit's fiscal officer shall deduct monthly from the salary of every member the sum listed opposite his name, other than any amount paid on behalf of the member, and shall credit that amount to the 1937 fund. Except to the extent the assessment is paid on behalf of the member, every person who becomes a member of the fire department is liable for the assessment and is conclusively considered to agree to pay it by having it deducted from his salary as required in this section.

(6) Appropriations that are made for the fund by the unit's fiscal body.

(7) From amounts transferred from a public safety user fee revenue fund established under IC 36-8-8.5 or IC 36-8-8.7.

SECTION 4. IC 36-8-7-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. (a) The local board shall meet annually and prepare an itemized estimate, in the form prescribed by the state board of accounts, of the amount of money that will be receipted into and disbursed from the 1937 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements must be divided into two (2) parts, designated as part 1 and part 2.

(b) Part 1 of the estimated disbursements consists of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible to and expect to retire during the next fiscal year, and to the dependents of deceased members. Part 2 of the estimated disbursements consists of an estimate of the amount of money that will be needed to pay death benefits and other expenditures that are authorized or required by this chapter.

(c) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing the following:

(1) The name, age, and date of retirement of each retired member and the monthly and yearly amount of the payment to which the retired member is entitled.

(2) The name and age of each member who is eligible to and expects to retire during the next fiscal year, the date on which the member expects to retire, and the monthly and yearly amount of the payment that the member will be entitled to receive.

(3) The name and the age of each dependent, the date on which the dependent became a dependent, the date on which the dependent will cease to be a dependent by reason of attaining the age at which dependents cease to be dependents, and the monthly and yearly amount of the payment to which the dependent is entitled.

(4) The amount that would be required for the next fiscal year to maintain level cost funding during the active fund members' employment on an actuarial basis.

(5) The amount that would be required for the next fiscal year to amortize accrued liability for active members, retired members, and dependents over a period determined by the local board, but not to exceed forty (40) years.

(d) The total receipts shall be deducted from the total expenditures as listed in the itemized estimate. The amount of the excess of the estimated expenditures over the estimated receipts shall be paid by the unit in the same manner as other expenses of the unit are paid, and an appropriation shall be made annually for that purpose. The estimates submitted shall be prepared and filed in the same manner and form and at the same time that estimates of other offices and departments of the unit are prepared and filed.

(e) The estimates shall be made a part of the annual budget of the unit. When revising the estimates, the executive, the fiscal officer, and other fiduciary officers may not reduce the items in part 1 of the estimated disbursements.

(f) **Except as provided in subsection (g),** the unit's fiscal body shall make the appropriations necessary to pay that proportion of the budget of the 1937 fund that the unit is obligated to pay under subsection (d). In addition, the fiscal body may make appropriations for purposes of subsection (c)(4), (c)(5), or both. All appropriations shall be made to the local board for the exclusive use of the 1937 fund. The amounts listed in part 1 of the estimated disbursements, if found to be correct and in conformity with the data submitted in the certified statement, are a binding obligation upon the unit. Notwithstanding any other law, neither the county board of tax adjustment nor the state board of tax commissioners may reduce the appropriations made to pay the amount equal to estimated disbursements minus estimated receipts.

(g) Notwithstanding subsection (f), the amount of appropriations required to be made by the legislative body shall be reduced by amounts transferred from a public safety user fee fund established under IC 36-8-8.5 or IC 36-8-8.7 and credited to the 1937 fund.

SECTION 5. IC 36-8-7.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. The 1953 fund is derived from the following sources:

(1) From money or other property that is given to the local board for the use of the fund. The local board may take by gift, grant, devise, or bequest any money, chose in action, personal property, real property, or use the same for the purposes of the 1953 fund or for such purposes specified by the grantor.

(2) From money, fees, and awards of every nature that are given to the police department of the municipality or to a member of the department because of service or duty performed by the department or a member. This includes fines imposed by the safety board against a member of the department, all money from gambling cases and from gambling devices as well as the proceeds from the sale of lost, stolen, and confiscated property recovered or taken into possession by members of the police department in the performance of their duties and confiscated by court order, and sold at a public sale in accordance with law.

(3) From an assessment made during the period of his employment or for thirty-two (32) years, whichever is shorter, on the salary of each member whom the local board has accepted and designated as a beneficiary of the 1953 fund, an

amount equal to six percent (6%) of the salary of a first class patrolman. However, the employer may pay all or a part of the assessment for the member.

(4) From the income from investments of the 1953 fund.

(5) From the proceeds of a tax levied by the police special service district upon taxable property in the district, which the treasurer shall collect and credit to the 1953 fund, to be used exclusively by the 1953 fund.

(6) From amounts transferred from a public safety user fee revenue fund established under IC 36-8-8.5.

SECTION 6. IC 36-8-7.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits, pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the police special service district is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1953 fund during the next fiscal year. The estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible and expect to retire during the ensuing fiscal year, and to the dependents of deceased members.

(b) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing:

(1) the estimated number of beneficiaries from the 1953 fund during the ensuing fiscal year in each of the various classifications of beneficiaries as prescribed in this chapter, and the names and amount of benefits being paid to those actively on the list of beneficiaries at that time;

(2) the name, age, and length of service of each member of the police department who is eligible to and expects to retire during the ensuing fiscal year, and the monthly and yearly amounts of the payment that the member will be entitled to receive; **and**

(3) the name and age of each dependent of a member of the police department who is then receiving benefits, the date on which the dependent commenced drawing benefits, and the date on which the dependent will cease to be a dependent by reason of his attaining the age limit prescribed by this chapter, and the monthly and yearly amounts of the payments to which each of the dependents is entitled.

(c) After the amounts of receipts and disbursements shown in the itemized estimate are fixed and approved by the executive, fiscal officer, legislative body and other bodies, as provided by law for other municipal funds, the total receipts shall be deducted from the total expenditures stated in the itemized estimate, and the amount of the excess shall be paid by the police special service district in the same manner as other expenses of the district are paid. **Except as provided in subsection (d),** the legislative body shall levy a tax and the money derived from the levy shall, when collected, be credited exclusively to the 1953 fund. The tax shall be levied in the amount and at the rate that is necessary to produce sufficient revenue to equal the deficit. Notwithstanding any other law, neither the county board of tax adjustment nor the state board of tax commissioners may reduce the tax levy.

(d) Notwithstanding subsection (c), the legislative body is not required to levy a tax if the amounts transferred from a public safety user fee revenue fund established under IC 36-8-8.5 and credited to the 1953 fund are sufficient to produce revenue equal to the deficit.

SECTION 7. IC 36-8-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 8.5. Consolidated City Public Safety User Fees

Sec. 1. This chapter applies to a consolidated city.

Sec. 2. (a) The legislative body may adopt an ordinance to establish just and equitable fees for services provided by:

(1) the police department;

(2) the fire department; or

(3) both the police and fire departments.

An ordinance imposing user fees under this chapter must provide the dates on which the fees are due.

(b) Fees established after notice and hearing under this chapter are presumed to be just and equitable.

(c) The fees are payable by the owner of each lot or parcel of real property located in a county containing a consolidated city that:

(1) is located in:

(A) the fire special service district (as described in IC 36-3-1-6(a));

(B) the police special service district (as described in IC 36-3-1-6(a)); or

(C) both the fire special service district and the police special service district; or

(2) is served by:

(A) the police department;

(B) the fire department; or

(C) both the police and fire departments.

(d) Unless the legislative body finds otherwise, services provided by:

(1) the police department;

(2) the fire department; or

(3) both the police and fire departments;

are considered to benefit every lot and parcel of real property described in subsection (c), and the fees shall be billed and collected accordingly.

(e) A fee imposed under this chapter must consist of a flat charge multiplied by the square footage of all improvements located on each lot and parcel of real property described in subsection (c).

Sec. 3. (a) After the introduction of an ordinance establishing fees under section 2 of this chapter, but before it is finally adopted, the legislative body shall hold a public hearing at which:

(1) owners of real property located in a county containing a consolidated city served or to be served by:

(A) the police department;

(B) the fire department; or

(C) the police and fire departments; and

(2) other interested persons;

may be heard concerning the proposed fees.

(b) Notice of the hearing, setting forth the proposed schedule of fees, shall be published in accordance with IC 5-3-1. The hearing may be adjourned from time to time.

(c) After the hearing, the legislative body may adopt the ordinance establishing the fees, either as originally introduced or as modified. A copy of the schedule of fees adopted shall be kept on file and available for public inspection in the offices of the city clerk.

(d) The fees established for any users or property shall be extended to cover any additional property that is subsequently served, without any hearing or notice.

(e) The legislative body may change or readjust the fees in the same manner by which they were established.

(f) Fees collected under this chapter are considered additional revenues of the consolidated city.

Sec. 4. (a) Owners of real property located in a county containing a consolidated city served or to be served by:

(1) the police department;

(2) the fire department; or

(3) both the police and fire departments;

and other interested persons may file a written petition objecting to the user fees. The only grounds for an objection to the user fees is that the fees are not just and equitable.

(b) If a written petition objecting to the user fees is filed under this section, the following requirements must be met:

(1) The petition must contain the names and addresses of the petitioners.

(2) The petitioners must attend the public hearing provided under section 3 of this chapter.

(3) The written petition must be filed with the legislative body within five (5) days after the hearing required under section 3

of this chapter.

(4) The written petition must state specifically the ground or grounds of objection.

(c) Unless the objecting petition is abandoned, the city clerk shall file in the office of the clerk of the circuit or superior court of the county a copy of the user fee ordinance or ordinances together with the petition. The court shall then set the matter for hearing at the earliest possible date, which must be within twenty (20) days after the filing of the petition with the court. The court shall send notice of the hearing by certified mail to the consolidated city and to the first signer of the petition at the address shown on the petition. All interested parties shall appear in the court without further notice, and the consolidated city may not conduct any further proceedings concerning the user fees until the matters presented by the petition are heard and determined by the court.

(d) The petitioners shall file with the petition a bond in the sum and with the security fixed by the court. The bond must be conditioned on the petitioners' payment of all or part of the costs of the hearing and any damages awarded to the consolidated city if the petition is denied, as ordered by the court.

(e) Upon the date fixed in the notice, the court shall, without a jury, hear the evidence produced. The court shall presume the user fees are just and equitable and confirm the decision of the legislative body unless it determines that the findings of the legislative body are arbitrary and capricious, in which case it may sustain the objecting petition. The order of the court is final and conclusive upon all parties to the proceeding and parties who might have appeared at the hearing, subject only to the right of direct appeal. All questions that were presented or might have been presented are considered to have been adjudicated by the order of the court, and no collateral attack upon the decision of the legislative body or order of the court is permitted.

(f) If the court sustains the petition, or if it is sustained on appeal, the legislative body shall set the user fees in accordance with the decision of the court.

Sec. 5. (a) The collection of the user fees authorized by this chapter may be effectuated through a periodic billing system.

(b) If user fees are not paid within the time fixed by the legislative body in an ordinance adopted under section 3 of this chapter, the user fees become delinquent, and a penalty of ten percent (10%) of the amount of the user fees attaches to the user fees. The consolidated city may recover:

(1) the amount due;

(2) the penalty; and

(3) reasonable attorney's fees;

in a civil action in the name of the consolidated city.

Sec. 6. (a) The fiscal officer shall establish a public safety user fee revenue fund to be maintained as a separate fund of the consolidated city. The fund consists of:

(1) revenues from a public safety user fee imposed under this chapter; and

(2) penalties imposed for late payment or nonpayment of a user fee imposed under this chapter.

(b) The fiscal officer shall maintain separate accounts within the fund for:

(1) user fees imposed for services provided by the police department, if a user fee is imposed solely for services provided by the police department; and

(2) user fees imposed for services provided by the fire department, if a user fee is imposed solely for services provided by the fire department.

(c) Amounts deposited in the fund shall be used to:

(1) pay the costs of administering the fund; and

(2) pay all or a part of the costs of pensions obligations under:

(A) IC 36-8-6;

(B) IC 36-8-7;

(C) IC 36-8-7.5; or

(D) any combination of clauses (A) through (C).

(d) Amounts in the public safety user fee revenue fund do not revert to the general fund at the end of the fiscal year.

Sec. 7. (a) User fees imposed under this chapter shall be treated as ad valorem property taxes for the purpose of distributions under the following:

(1) IC 6-3.5.

(2) IC 6-5-10.

(3) IC 6-5-11.

(4) IC 6-5-12.

(5) IC 6-6-5.

(6) Any other law that computes a distribution on the assessed value of the tangible property in a political subdivision or on the property tax levy imposed by the political subdivision.

(b) The state board of tax commissioners shall provide the information necessary for the department of state revenue and the county auditor to make the distributions described in subsection (a).

Sec. 8. (a) If a consolidated city adopts an ordinance to impose public safety user fees under this chapter, the local government tax control board established under IC 6-1.1- 18.5-11 shall reduce the applicable maximum permissible ad valorem property tax levy of:

(1) the police special service district;

(2) the fire special service district; or

(3) the police special service district and the fire special service districts;

for property taxes first due and payable during the year after the adoption of the ordinance imposing the user fees.

(b) The reduction of the applicable maximum permissible ad valorem property tax levy required under subsection (a) must be based on the amount budgeted by the consolidated city for pension obligations under:

(1) IC 36-8-6;

(2) IC 36-8-7;

(3) IC 36-8-7.5; or

(4) any combination of subdivisions (1) through (3);

that are to be paid for with revenues from public safety user fees imposed under this chapter.

Sec. 9. (a) Fees assessed against real property under this chapter constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in subsection (b), the lien attaches when notice of the lien is filed in the county recorder's office under section 10 of this chapter.

(b) The municipality shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller of the real property;

upon receipt of a verified demand in writing from the purchaser of the real property. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner, and that the purchaser has not been paid by the seller for the delinquent fees.

Sec. 10. (a) The fiscal officer may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaidfees and penalties have been due and unpaid for at least ninety (90) days.

(b) Except as provided in subsection (a), the fiscal officer shall enforce the payment and collection of fees and penalties imposed under this chapter. As often as the fiscal officer determines is necessary in a calendar year, the fiscal officer shall prepare a list of delinquent fees and penalties that are enforceable under this section. The list must include:

(1) the name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;

(2) the description of the premises, as shown by the records of the county auditor; and

(3) the amount of the delinquent fees and the penalty.

(c) The fiscal officer shall record a copy of each list with the county recorder, who shall charge a fee for recording it in accordance with IC 36-2-7-10. The fiscal officer shall then mail to each property owner on the list a notice stating that a lien against the owner's property has been recorded.

(d) Using the lists prepared under subsection (b) and recorded under subsection (c), the fiscal officer shall certify to the county auditor a list of the liens that remain unpaid according to a schedule agreed upon by the county treasurer and the fiscal officer for

collection with the next cycle for property taxes. The county and its officers and employees are not liable for any material error in the information on the list.

(e) Using the lists prepared under subsection (b) and recorded under subsection (c), after September 1 of the preceding calendar year and before September 1 of the current calendar year, the fiscal officer shall, before December 15 of each year, certify to the county auditor a list of the liens that remain unpaid for collection in the next May. The county and its officers and employees are not liable for any material error in the information on the list.

(f) The fiscal officer shall release a recorded lien when the:

(1) delinquent user fees;

(2) penalties; and

(3) recording fees;

are fully paid.

(g) The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(h) On receipt of the list under subsection (d) or (e), the county recorder shall immediately enter on the tax duplicate for the consolidated city the delinquent fees, penalties, recording fees, and certification fees, which are due not later than the due date of the next installment of property taxes.

(i) If delinquent user fees, penalties, recording fees, and certification fees are not paid, they shall be collected by the county treasurer in the same way that delinquent property taxes are collected.

(j) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all fees and penalties that have been collected. The county auditor shall deduct the certification fees collected by the county treasurer and pay over to the fiscal officer the remaining fees and penalties due to the consolidated city. The county treasurer shall retain the certification fees that have been collected and shall deposit them in the county general fund.

(k) Fees and penalties that were not recorded before a recorded conveyance shall be removed from the tax roll for a purchaser who, in the manner prescribed by section 9 of this chapter, files a verified demand with the county auditor.

Sec. 11. The consolidated city may foreclose a lien established by this chapter in order to collect fees and penalties. The consolidated city shall recover the amount of the fees and penalties, and reasonable attorney's fees. The court shall order the sale to be made without relief from valuation or appraisement laws.

SECTION 8. IC 36-8-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 8.7. Municipal Public Safety User Fees

Sec. 1. This chapter applies to all cities and towns except a consolidated city.

Sec. 2. (a) The legislative body may adopt an ordinance to establish just and equitable fees for services provided by:

(1) the police department;

(2) the fire department; or

(3) both the police and fire departments.

An ordinance imposing user fees under this chapter must provide the dates on which the fees are due.

(b) Fees established after notice and hearing under this chapter are presumed to be just and equitable.

(c) The fees are payable by the owner of each lot or parcel of real property that is located in the municipality.

(d) Unless the legislative body finds otherwise, services provided by:

(1) the police department;

(2) the fire department; or

(3) both the police and fire departments;

are considered to benefit every lot or parcel of real property described in subsection (c), and the fees shall be billed and collected accordingly.

(e) A fee imposed under this chapter must consist of a flat charge multiplied by the square footage of all improvements located on each lot and parcel of real property described in subsection (c).

Sec. 3. (a) After the introduction of an ordinance establishing fees under section 2 of this chapter, but before it is finally adopted, the municipal legislative body shall hold a public hearing at which:

(1) owners of real property located in the municipality served or to be served by:

(A) the police department;

(B) the fire department; or

(C) the police and fire departments; and

(2) other interested persons;

may be heard concerning the proposed fees.

(b) Notice of the hearing, setting forth the proposed schedule of fees, shall be published in accordance with IC 5-3-1. The hearing may be adjourned from time to time.

(c) After the hearing, the legislative body may adopt the ordinance establishing the fees, either as originally introduced or as modified. A copy of the schedule of fees adopted shall be kept on file and available for public inspection in the offices of the municipal clerk.

(d) The fees established for any users or property shall be extended to cover any additional property that is subsequently served, without any hearing or notice.

(e) The legislative body may change or readjust the fees in the same manner by which they were established.

(f) Fees collected under this chapter are considered revenues of the municipality.

Sec. 4. (a) Owners of real property located in the municipality served or to be served by:

(1) the police department;

(2) the fire department; or

(3) the police and fire departments;

and other interested persons may file a written petition objecting to the user fees. The only grounds for objection is that the fees are not just and equitable.

(b) If a written petition objecting to the user fees is filed under this section, the following requirements must be met:

(1) The petition must contain the names and addresses of the petitioners.

(2) The petitioners must attend the public hearing provided under section 3 of this chapter.

(3) The written petition must be filed with the legislative body within five (5) days after the hearing required under section 3 of this chapter.

(4) The written petition must state specifically the ground or grounds of objection.

(c) Unless the objecting petition is abandoned, the municipal clerk shall file in the office of the clerk of the circuit or superior court of the county a copy of the user fee ordinance or ordinances together with the petition. The court shall then set the matter for hearing at the earliest possible date, which must be within twenty (20) days after the filing of the petition with the court. The court shall send notice of the hearing by certified mail to the municipality and to the first signer of the petition at the address shown on the petition. All interested parties shall appear in the court without further notice, and the municipality may not conduct any further proceedings concerning the user fees until the matters presented by the petition are heard and determined by the court.

(d) The petitioners shall file with the petition a bond in the sum and with the security fixed by the court. The bond must be conditioned on the petitioners' payment of all or part of the costs of the hearing and any damages awarded to the municipality if the petition is denied, as ordered by the court.

(e) Upon the date fixed in the notice, the court shall, without a jury, hear the evidence produced. The court shall presume the user fees are just and equitable and confirm the decision of the legislative body, unless it determines that the findings of the legislative body are arbitrary and capricious, in which case it may sustain the objecting petition. The order of the court is final and conclusive upon all parties to the proceeding and parties who might have appeared at the hearing, subject only to the right of direct appeal. All questions that were presented or might have been presented are considered to have been adjudicated by the order of the court, and no collateral attack upon the decision of the legislative body or order of the court is

permitted.

(f) If the court sustains the petition, or if it is sustained on appeal, the legislative body shall set the user fees in accordance with the decision of the court.

Sec. 5. The collection of the user fees authorized by this chapter may be effectuated through a periodic billing system.

Sec. 6. (a) The fiscal officer shall establish a public safety user fee fund to be maintained as a separate fund of the municipality. The fund consists of:

(1) revenues from a public safety user fee imposed under this chapter; and

(2) penalties imposed for late payment or nonpayment of a user fee imposed under this chapter.

(b) The fiscal officer shall maintain separate accounts within the fund for:

(1) user fees imposed for services provided by the police department, if a user fee is imposed solely for services provided by the police department; and

(2) user fees imposed for services provided by the fire department, if a user fee is imposed solely for services provided by the fire department.

(c) Amounts deposited in the fund may be used to pay all or part of the costs of:

(1) administering the fund; or

(2) pension obligations under:

(A) IC 36-8-6;

(B) IC 36-8-7; or

(C) any combination of clauses (A) and (B).

(d) Amounts in the public safety user fee revenue fund do not revert to the general fund at the end of the fiscal year.

Sec. 7. (a) User fees imposed under this chapter shall be treated as ad valorem property taxes for the purpose of distributions under the following:

(1) IC 6-3.5.

(2) IC 6-5-10.

(3) IC 6-5-11.

(4) IC 6-5-12.

(5) IC 6-6-5.

(6) Any other law that computes a distribution on the assessed value of the tangible property in a political subdivision or on the property tax levy imposed by the political subdivision.

(b) The state board of tax commissioners shall provide the information necessary for the department of state revenue and each county auditor to make the distributions described in subsection (a).

Sec. 8. If a municipality adopts an ordinance to impose public safety user fees under this chapter, the local government tax control board established under IC 6-1.1-18.5-11 shall reduce the municipality's maximum permissible ad valorem property tax levy for property taxes first due and payable during the year after the adoption of the ordinance imposing the user fees. The reduction shall be based on the amount budgeted by the municipality for:

(1) pension obligations under IC 36-8-6;

(2) pension obligations under IC 36-8-7; or

(3) any combination of subdivisions (1) and (2);

that are to be paid for with revenues from public safety user fees imposed under this chapter.

Sec. 9. (a) Fees assessed against real property under this chapter constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in subsection (b), the lien attaches when notice of the lien is filed in the county recorder's office under section 10 of this chapter.

(b) The municipality shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller of the real property;

upon receipt of a verified demand in writing from the purchaser of the real property. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner, and that the purchaser has not been paid by the seller for the delinquent fees.

Sec. 10. (a) The fiscal officer may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days.

(b) Except as provided in subsection (a), the fiscal officer shall enforce the payment and collection of fees and penalties imposed under this chapter. As often as the fiscal officer determines is necessary in a calendar year, the fiscal officer shall prepare a list of delinquent fees and penalties that are enforceable under this section. The list must include:

(1) the name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;

(2) the description of the premises, as shown by the records of the county auditor; and

(3) the amount of the delinquent fees, and the penalty.

(c) The fiscal officer shall record a copy of each list with the county recorder, who shall charge a fee for recording it in accordance with IC 36-2-7-10. The fiscal officer shall then mail to each property owner on the list a notice stating that a lien against the owner's property has been recorded.

(d) Using the lists prepared under subsection (b) and recorded under subsection (c), the fiscal officer shall certify to the county auditor a list of the liens that remain unpaid according to a schedule agreed upon by the county treasurer and the fiscal officer for collection with the next cycle for property taxes. The county and its officers and employees are not liable for any material error in the information on the list.

(e) Using the lists prepared under subsection (b) and recorded under subsection (c), after September 1 of the preceding calendar year and before September 1 of the current calendar year, the fiscal officer shall, before December 15 of each year, certify to the county auditor a list of the liens that remain unpaid for collection in the next May. The county and its officers and employees are not liable for any material error in the information on the list.

(f) The fiscal officer shall release a recorded lien when the:

(1) delinquent user fees;

(2) penalties; and

(3) recording fees;

are fully paid.

(g) The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(h) On receipt of the list under subsection (d) or (e), the county recorder shall immediately enter on the tax duplicate for the municipality the delinquent fees, penalties, recording fees, and certification fees, which are due not later than the due date of the next installment of property taxes.

(i) If delinquent user fees, penalties, recording fees, and certification fees are not paid, they shall be collected by the county treasurer in the same way that delinquent property taxes are collected.

(j) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all fees and penalties that have been collected. The county auditor shall deduct the certification fees collected by the county treasurer and pay over to the fiscal officer the remaining fees and penalties due to the municipality. The county treasurer shall retain the certification fees that have been collected and deposit them in the county general fund.

(k) Fees and penalties that were not recorded before a recorded conveyance shall be removed from the tax roll for a purchaser who, in the manner prescribed by section 9 of this chapter, files a verified demand with the county auditor.

Sec. 11. The municipality may foreclose a lien established by this chapter in order to collect fees and penalties. The municipality shall recover the amount of the fees and penalties and reasonable attorney's fees. The court shall order the sale to be made without relief from valuation or appraisement laws.

SECTION 9. IC 36-8-8.8, IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 8.8. Replacement of Property Tax Levies in Allocation Areas

Sec. 1. As used in this chapter, "allocation area" refers to an area

that is established under the authority of any of the following statutes and in which tax increment revenues are collected:

(1) IC 6-1.1-39.
(2) IC 8-22-3.5.
(3) IC 36-7-14.
(4) IC 36-7-14.5.
(5) IC 36-7-15.1.
(6) IC 36-7-30.

Sec. 2. As used in this chapter, "base assessed value" means the base assessed value as that term is defined in IC 6-1.1-39-5(h), IC 8-22-3.5-9(a), IC 36-7-14-39(a), IC 36-7-15.1-26(a), IC 36-7-15.1-35(a), or IC 36-7-30-25(a)(2).

Sec. 3. As used in this chapter, "governing body" means the following:

(1) For an allocation area created under IC 6-1.1-39, the fiscal body of the county (as defined in IC 36-1-2-6).
(2) For an allocation area created under IC 8-22-3.5, the commission (as defined in IC 8-22-3.5-2).
(3) For an allocation area created under IC 36-7-14, the redevelopment commission of the unit.
(4) For an allocation area created under IC 36-7-14.5, the authority created by the unit.
(5) For an allocation area created under IC 36-7-15.1, the metropolitan development commission of the consolidated city.
(6) For an allocation area created under IC 36-7-30, the military base reuse authority.

Sec. 4. As used in this chapter, "obligation" means an obligation to repay:

(1) the principal and interest on bonds;
(2) lease rentals on leases; or
(3) any other contractual obligation;

payable from tax increment revenues. The term includes a guarantee of repayment from tax increment revenues if other revenues are insufficient to make a payment.

Sec. 5. As used in this chapter, "property taxes" means:

(1) property taxes, as defined in IC 6-1.1-39-5(g), IC 36-7-14-39(a), IC 36-7-15.1-26(a), and IC 36-7-30-25(a)(3); or
(2) for allocation areas created under IC 8-22-3.5, the taxes assessed on taxable tangible property in the allocation area.

Sec. 6. As used in this chapter, "replacement amount" means the property taxes that:

(1) were imposed on the assessed value of property in the allocation area in excess of the base assessed value and budgeted by a municipality for purposes described in IC 36-8-8.5-8 or IC 36-8-8.7-8 in the year before a municipality began collecting user fees under IC 36-8-8.5 or IC 36-8-8.7; and
(2) will not be collected in a particular year because of the reduction in the municipality's maximum permissible ad valorem property tax levy under IC 36-8-8.5-8 or IC 36-8-8.7-8.

Sec. 7. As used in this chapter, "tax increment revenues" means the property taxes attributable to the assessed value of property in excess of the base assessed value.

Sec. 8. (a) This chapter applies to an allocation area in which:

(1) the holders of obligations received a pledge before the date on which a municipality imposed a user fee under IC 36-8-8.5 or IC 36-8-8.7 of tax increment revenues to repay any part of the obligations due after the date on which the municipality imposed a user fee under IC 36-8-8.5 or IC 36-8-8.7; and
(2) the reduction of a property tax levy under IC 36-8-8.5 or IC 36-8-8.7 adversely affects the ability of the governing body to repay the obligations described in subdivision (1).

(b) A governing body may use one (1) or more of the procedures described in sections 9 through 11 of this chapter to provide sufficient funds to repay the obligations described in subsection (a). The amount raised each year may not exceed the replacement amount.

Sec. 9. (a) A governing body may, after a public hearing, impose a special assessment on the owners of property that is located in an allocation area to repay a bond or an obligation described in section 8 of this chapter that comes due after the date on which the municipality imposed a user fee under IC 36-8-8.5 or IC 36-8-8.7. The amount of a special assessment for a taxpayer shall be determined by multiplying the replacement amount by a fraction, the denominator of which is the total incremental assessed value in the allocation area, and the numerator of which is the incremental assessed value of the taxpayer's property in the allocation area.

(b) Before a public hearing under subsection (a) may be held, the governing body must publish notice of the hearing under IC 5-3-1. The notice must state that the governing body will meet to consider whether a special assessment should be imposed under this chapter and whether the special assessment will help the governing body realize the redevelopment or economic development objectives for the allocation area or honor its obligations related to the allocation area. The notice must also name a date when the governing body will receive and hear remonstrances and objections from persons affected by the special assessment. All persons affected by the hearing, including all taxpayers within the allocation area, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, and orders of the governing body by the notice. At the hearing, which may be adjourned from time to time, the governing body shall hear all persons affected by the proceedings and shall consider all written remonstrances and objections that have been filed. The only grounds for remonstrance or objection are that the special assessment will not help the governing body realize the redevelopment or economic development objectives for the allocation area or honor its obligations related to the allocation area. After considering the evidence presented, the governing body shall take final action concerning the proposed special assessment. The final action taken by the governing body shall be recorded and is final and conclusive, except that an appeal may be taken in the manner prescribed by subsection (c).

(c) A person who filed a written remonstrance with a governing body under subsection (b) and is aggrieved by the final action taken may, within ten (10) days after that final action, file in the office of the clerk of the circuit or superior court a copy of the order of the governing body and the person's remonstrance or objection against that final action, together with a bond conditioned to pay the costs of appeal if the appeal is determined against the person. The only ground of remonstrance or objection that the court may hear is whether the proposed assessment will help achieve the redevelopment of economic development objectives for the allocation area or honor its obligations related to the allocation area. An appeal under this subsection shall be promptly heard by the court without a jury. All remonstrances or objections upon which an appeal has been taken must be consolidated, heard, and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the remonstrances or objections, and may confirm the final action of the governing body or sustain the remonstrances or objections. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

(d) The maximum amount of a special assessment under this section may not exceed the replacement amount.

(e) A special assessment shall be imposed and collected in the same manner as ad valorem property taxes are imposed and collected.

Sec. 10. (a) For purposes of this section, "additional credit" means:

(1) for allocation areas created under IC 6-1.1-39, the additional credit described in IC 6-1.1-39-6(a);
(2) for allocation areas created under IC 8-22-3.5, the additional credit described in IC 8-22-3.5-10(a);
(3) for allocation areas created under IC 36-7-14, the additional credit described in IC 36-7-14-39.5(c);
(4) for allocation areas created under IC 36-7-14.5, the additional credit described in IC 36-7-14.5-12.5(d)(5);
(5) for allocation areas created under IC 36-7-15.1:
  (A) the additional credit described in IC 36-7-15.1-26.5(e); or
  (B) the credit described in IC 36-7-15.1-35(d); or
(6) for allocation areas created under IC 36-7-30, the additional credit described in IC 36-7-30-25(b)(2)(E).

(b) In order to raise the replacement amount, the governing body of each allocation area may deny all or a part of the additional credit.

Sec. 11. If a governing body does not impose a special assessment under section 9 of this chapter or deny all or part of the additional credit under section 10 of this chapter, the governing body may, in order to provide sufficient funds to repay the obligations described in section 8(a) of this chapter, use any tax increment revenues that exceed:

(1) the amount pledged to pay the principal and interest of obligations; and

(2) any amounts used to provide debt service reserve for obligations payable solely or in part from tax increment revenues or from other revenues.

(Reference is to HB 1574 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 22, nays 3.

BAUER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1781, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 26, after "crimes" insert "**, infractions, and delinquent acts**".

(Reference is to HB 1781 as introduced.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

DVORAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1900, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 12, nays 0.

STEVENSON, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1943, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 13, nays 0.

SUMMERS, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

Referrals to Ways and Means

The Speaker announced, pursuant to House Rule 127, that House Bills 1170, 1381, 1692, and 1938 had been referred to the Committee on Ways and Means.

HOUSE MOTION

Mr. Speaker: I move that Representatives Lytle, M. Smith, and Steele be added as coauthors of House Bill 1043.

DENBO

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Summers be added as coauthor of House Bill 1047.

DUNCAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Frizzell be added as coauthor of House Bill 1070.

AVERY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Kruse be added as coauthor of House Bill 1095.

COOK

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives T. Adams, Saunders, and Hinkle be added as coauthors of House Bill 1116.

LYTLE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative T. Adams be added as coauthor of House Bill 1117.

LYTLE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Denbo be added as coauthor of House Bill 1120.

BECKER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Summers and Duncan be added as coauthors of House Bill 1122.

FRY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ulmer be added as coauthor of House Bill 1181.

FRY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Kruse and Porter be added as coauthors of House Bill 1185.

DAY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Klinker, Dillon, and Becker be added as coauthors of House Bill 1249.

AVERY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative D. Young be added as coauthor of House Bill 1367.

WEINZAPFEL

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Budak be added as coauthor of House Bill 1459.

PELATH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Budak and Becker be added as coauthors of House Bill 1461.

PELATH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Ulmer, Bottorff, and Mannweiler be added as coauthors of House Bill 1468.

ROBERTSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ruppel be added as coauthor of House Bill 1477.

KUZMAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Bischoff be added as coauthor of House Bill 1526.

DUNCAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ripley be added as coauthor of House Bill 1554.

CROOKS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ripley be added as coauthor of House Bill 1555.

CROOKS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives T. Adams and Ayres be added as coauthors of House Bill 1574.

CRAWFORD

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Crooks be added as coauthor of House Bill 1605.

KERSEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives M. Smith and Ripley be added as coauthor of House Bill 1674.

CROOKS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Becker be added as coauthor of House Bill 1678.

CRAWFORD

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Welch be added as coauthor of House Bill 1735.

STEELE

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Frizzell be added as coauthor of House Bill 1754.

AVERY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Goodin be removed as author of House Bill 1786, Representative LIGGETT be substituted as author, and Representative Goodin be added as coauthor.

GOODIN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Torr be added as coauthor of House Bill 1789.

LIGGETT

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Steele and Aguilera be added as coauthors of House Bill 1903.

STEVENSON

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Kruse be added as coauthor of House Bill 1916.

FRENZ

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Summers and L. Lawson be added as coauthors of House Bill 1938.

BECKER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Kruse and Buck be added as coauthors of House Bill 1948.

WELCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Hinkle be added as coauthor of House Bill 2031.

KRUZAN

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Becker be added as coauthor of House Bill 2045.

WELCH

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Hasler be added as coauthor of House Bill 2116.

RIPLEY

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ripley be added as coauthor of House Joint Resolution 1.

ULMER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Turner and Dvorak be added as cosponsors of Engrossed Senate Bill 97.

BUDAK

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Richardson the House adjourned at 5:15 p.m., this twelfth day of February, 2001, until Tuesday, February 13, 2001, at 1:00 p.m.

JOHN R. GREGG
Speaker of the House of Representatives

LEE ANN SMITH
Principal Clerk of the House of Representatives